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Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

IN RE: NATIONAL : HON. DAN A.  
PRESCRIPTION OPIATE : POLSTER  
LITIGATION :  
:  
APPLIES TO ALL CASES : NO.  
: 1:17-MD-2804  
:

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

February 15, 2019

- - -

Videotaped deposition of  
GEORGE STEVENSON, taken pursuant to  
notice, was held at the offices of  
McCarter & English, LLP, 1600 Market  
Street, Philadelphia, Pennsylvania,  
beginning at 9:11 a.m., on the above  
date, before Michelle L. Gray, a  
Registered Professional Reporter,  
Certified Shorthand Reporter, Certified  
Realtime Reporter, and Notary Public.

- - -

GOLKOW LITIGATION SERVICES  
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Page 3	Page 5
<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 PIETRAGALLO GORDON ALFANO BOSICK &amp;</p> <p>4 RASPANTI, LLP</p> <p>5 BY: ASHLEY KENNY, ESQ.</p> <p>6 1818 Market Street, Suite 3402</p> <p>7 Philadelphia, Pennsylvania 19103</p> <p>8 (215) 320-6200</p> <p>9 Ak@pietragallo.com</p> <p>10 Representing the Defendant, Cardinal</p> <p>11 Health</p> <p>12</p> <p>13 TELEPHONIC/STREAMING APPEARANCES:</p> <p>14</p> <p>15 JONES DAY</p> <p>16 BY: EDWARD M. CARTER, ESQ.</p> <p>17 325 John H. McConnell Boulevard</p> <p>18 Columbus, Ohio 43215</p> <p>19 (614) 281-3906</p> <p>20 Emcarter@jonesday.com</p> <p>21 Representing the Defendant, Walmart</p> <p>22</p> <p>23 COVINGTON &amp; BURLING, LLP</p> <p>24 BY: JOSEPH HYKAN, ESQ.</p> <p>AMBER CHARLES, ESQ.</p> <p>850 Tenth Street, NW</p> <p>Suite 586N</p> <p>Washington, D.C. 20001</p> <p>(202) 662-5769</p> <p>jhykan@cov.com</p> <p>acharles@cov.com</p> <p>Representing the Defendant, McKesson</p> <p>Corporation</p> <p>JACKSON KELLY, PLLC</p> <p>BY: SANDRA K. ZERRUSEN, ESQ.</p> <p>50 South Main Street, Suite 201</p> <p>Akron, Ohio 44308</p> <p>(330) 252-9060</p> <p>Skzerrusen@jacksonkelly.com</p> <p>Representing the Defendant, AmerisourceBergen</p>	<p>1 ALSO PRESENT:</p> <p>2</p> <p>3 Carolyn Johnson</p> <p>4 (Paralegal - Seeger Weiss)</p> <p>5 Sandra Di Iorio, Esq.</p> <p>6 (Endo)</p> <p>7</p> <p>8 VIDEOTAPE TECHNICIAN:</p> <p>9</p> <p>10 Bill Geigert</p> <p>11</p> <p>12 LITIGATION TECHNICIAN</p> <p>13</p> <p>14 Bradley Smith</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

3 (Pages 6 to 9)

4 (Pages 10 to 13)

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Page 14			Page 16		
1	- - -		1	- - -	
2	E X H I B I T S (Cont'd.)		2	DEPOSITION SUPPORT INDEX	
3	- - -		3	- - -	
4			4		
5	NO.	DESCRIPTION PAGE	5	Direction to Witness Not to Answer	
6	Endo		6	PAGE LINE	
7	Stevenson-36 Memo, 4/1/04	476	7	None.	
8	Cohn & Wolfe		8	Request for Production of Documents	
9	Subject, Proactive		9	PAGE LINE	
10	Media Relations		10	None.	
11	Review & Recommendations		11	Stipulations	
12	ENDO-OPIOID_MDL-		12	PAGE LINE	
13	04137641-42		13	None.	
14	Endo		14	Questions Marked	
15	Stevenson-37 E-mail Thread	480	15	PAGE LINE	
16	4/7/04		16	None.	
17	Subject, Kentucky		17		
18	State Programs and		18		
19	OxyContin Abuse		19		
20	ENDO-OPIOID_MDL-		20		
21	03256784-86		21		
22	Endo		22		
23	Stevenson-38 E-mail Thread	489	23		
24	4/23/04		24		
	Subject, E-mailing				
	8494968				
	ENDO-OPIOID_MDL-				
	03389105-07				
	Endo				
	Stevenson-39 E-mail Thread	495			
	4/28/04				
	Subject, Actiq Abuse				
	In PA				
	ENDO-OPIOID_MDL-				
	02843461-62				

Page 15			Page 17		
1	- - -		1	- - -	
2	E X H I B I T S (Cont'd.)		2	MS. VANNI: This is Amy	
3	- - -		3	Vanni, I represent Endo and the	
4			4	witness. We learned today that	
5	NO.	DESCRIPTION PAGE	5	Ms. Scullion previously	
6	Endo		6	represented Apothecon, a division	
7	Stevenson-40 E-mail Thread	500	7	of BMS, and more particularly,	
8	5/21/04		8	represented or participated in	
9	EN3218 Preparedness		9	representing Mr. Stevenson, our	
10	Next Steps		10	deponent today, at a deposition	
11	ENDO-OPIOID_MDL-		11	involving an unrelated drug,	
12	02843475-80		12	related to his employment at	
13	Endo		13	Apothecon.	
14	Stevenson-41 E-mail Thread	510	14	We're allowing the	
15	5/22/07		15	deposition to move forward, but	
16	Subject, FDA News Drug		16	ask that in the course of the	
17	Daily Bulletin		17	deposition, that Ms. Scullion met	
18	ENDO-OPIOID_MDL-		18	with Mr. Stevenson, that she not	
19	05554689-93		19	use any confidential information	
20	Endo		20	that she may have obtained from	
21	Stevenson-42 COLT Staff Minutes	516	21	him during her representation here	
22	5/24/07		22	today.	
23	ENDO-OPIOID_MDL-		23	MS. SCULLION: And as I	
24	01915705-06		24	explained off the record	
	Endo				
	Stevenson-43 McKesson 867	520			
	Opana Data Aug				
	To Present 11/3/06 xls				
	ENDO-OPIOID_MDL-04139984				

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<p style="text-align: right;">Page 18</p> <p>1 previously, I did represent, as an  2 associate at a prior law firm,  3 Apothecon. And I do recall  4 Mr. Stevenson, meeting him in the  5 course of that. I don't recall  6 representing you personally during  7 a deposition. But I'm -- I'm just  8 saying I don't recall.  9 As Ms. Vanni explained, the  10 representation with respect to  11 Apothecon did not concern any  12 opioid product, did not concern  13 any pain product; the product at  14 issue there was a generic warfarin  15 sodium product. And the nature of  16 the lawsuit was an antitrust  17 action. And again I was an  18 associate, that was at Solomon,  19 Zauderer, Ellenhorn, Frischer &amp;  20 Sharp.  21 And I have no intention  22 whatsoever of using any  23 confidential information I  24 obtained during the course of that</p>	<p style="text-align: right;">Page 20</p> <p>1 testimony.  2 MS. VANNI: Agreed.  3 MS. SCULLION: Okay. Great.  4 Thanks. I appreciate that.  5 THE VIDEOGRAPHER: Good  6 morning. We are now on the  7 record.  8 My name is Bill Geigert, I'm  9 a videographer for Golkow  10 Litigation Services.  11 Today's date is February 15,  12 2019. And the time is 9:11 a.m.  13 This video deposition is  14 being held in Philadelphia,  15 Pennsylvania, in the matter of  16 National Prescription.  17 The deponent is George  18 Stevenson.  19 Counsel will be noted on the  20 stenographic record.  21 The court reporter is  22 Michelle Gray and she will now  23 swear in the witness.  24 - - -</p>
<p style="text-align: right;">Page 19</p> <p>1 representation for today's  2 deposition.  3 MS. VANNI: Thank you.  4 MS. SCULLION: Just to be  5 clear, my understanding that the  6 statement has been made on the  7 record, but that there's no  8 intention of trying to strike the  9 testimony or deem the deposition  10 in any way unusable based on that  11 prior unrelated representation.  12 MS. VANNI: That's based on  13 your representation that you will  14 not use any confidential  15 information, that's true.  16 MS. SCULLION: Okay. If at  17 any point today there's any  18 concern that I am, I would ask  19 that that be made vocal, so I know  20 and we can resolve it.  21 So, again, I don't want to  22 waste the witness's time, my time,  23 the deposition time, if there's  24 going to be any concern about the</p>	<p style="text-align: right;">Page 21</p> <p>1 ... GEORGE STEVENSON,  2 having been first duly sworn, was  3 examined and testified as follows:  4 - - -  5 EXAMINATION  6 - - -  7 BY MS. SCULLION:  8 Q. Good morning, Mr. Stevenson,  9 I introduced myself to you briefly off  10 the record. And again, as you know, we  11 met before, my name is Jennifer Scullion.  12 A. Good morning, Jennifer.  13 Nice to see you.  14 Q. Very nice to see you as  15 well.  16 Mr. Stevenson, I'm going to  17 hand you what's been marked as Exhibit  18 Number 1.  19 (Document marked for  20 identification as Exhibit  21 Endo-Stevenson-1.)  22 BY MS. SCULLION:  23 Q. Mr. Stevenson, Exhibit  24 Number 1 was handed to us just before the</p>

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<p style="text-align: right;">Page 22</p> <p>1 deposition began today. Can you identify 2 Exhibit Number 1 please? 3 A. It's my CV. 4 Q. Okay. So this is a copy of 5 your current CV? 6 A. Yes. 7 Q. And this is something you 8 drafted yourself? 9 A. Yes. 10 Q. And to the best of your 11 knowledge, it's accurate and complete? 12 A. Yes, yes. 13 Q. We're going to get into some 14 of the preliminaries, but just as a 15 reminder in a deposition, if you can let 16 me finish my questions, and then you 17 begin your answers. The primary reason 18 for that is that Michelle, our court 19 reporter, will otherwise not be able to 20 take down both of our statements. 21 Does that make sense? 22 A. Thanks -- thanks for 23 reminding me. 24 Sorry, Michelle.</p>	<p style="text-align: right;">Page 24</p> <p>1 which you were deposed before? 2 A. There was -- I don't 3 remember the year. There was an AWP 4 pricing case that I gave a deposition 5 for. 6 Q. Which -- which employer was 7 that in connection with? 8 A. It was -- it was in 9 conjunction with Geneva, which became 10 Sandoz, and Bristol-Myers Squibb, 11 Apothecan also rep -- was represented 12 there because some of it referred to 13 them. So it was like a dual deposition 14 where both were there. 15 Q. Okay. 16 A. And then before that I gave 17 several depositions with respect to 18 warfarin sodium in the case with BMS and 19 their Apothecan subsidiary versus Barr 20 Laboratories. And before that I gave a 21 deposition in a private matter. 22 Q. And putting aside 23 depositions, have you ever testified in 24 court in connection with your employment</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Terrific. Okay. 2 Mr. Stevenson, have you been 3 deposed before? 4 A. Yes. 5 Q. Approximately how many 6 times? 7 A. Let me see, probably -- let 8 me see, there was -- somewhere in the 9 neighborhood of five or six. 10 Q. Have you ever been deposed 11 before with respect to any opioid 12 products? 13 A. No. 14 Q. Okay. Have you ever been 15 deposed before with respect to any 16 controlled substances? 17 A. No. 18 Q. Have you been deposed at all 19 with respect to any work you did with 20 Endo? 21 A. No. 22 Q. All right. Can you tell me 23 just very generally, as best you can 24 recall, the nature of the proceedings in</p>	<p style="text-align: right;">Page 25</p> <p>1 with Endo? 2 A. No. 3 Q. Have you given any -- any 4 sworn testimony of any kind in writing 5 with respect to your work at Endo? 6 A. No. 7 Q. All right. And just to 8 be -- really make sure, did you ever 9 testify before the New York Attorney 10 General, New York Attorney General with 11 respect to your work for Endo? 12 A. No. 13 Q. Are you represented by 14 counsel today? 15 A. Yes, I am. 16 Q. Who is that? 17 A. McCarter English, Amy Vanni. 18 Q. Fantastic. Okay. And let's 19 just go over some of the basics for 20 deposition. 21 As I said, I'm going to be 22 asking you questions. And I'm going to 23 ask you to answer and answer orally. Is 24 that all right?</p>

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<p style="text-align: right;">Page 26</p> <p>1 A. That's fine.</p> <p>2 Q. Okay. So we can't have</p> <p>3 shaking of heads and mm-hmms and</p> <p>4 unh-unhs. Do you understand that?</p> <p>5 A. I do.</p> <p>6 Q. Terrific. And as we</p> <p>7 discussed, we need to try and avoid</p> <p>8 talking over each other. Okay?</p> <p>9 A. I will.</p> <p>10 Q. Thank you. And from time to</p> <p>11 time, Ms. Vanni may have objections.</p> <p>12 Unless she instructs you not to answer</p> <p>13 and you choose to follow that</p> <p>14 instruction, you're going to need to</p> <p>15 answer the question despite any</p> <p>16 objection. Do you understand that?</p> <p>17 A. I do.</p> <p>18 Q. Terrific. And is there any</p> <p>19 reason that you can't give your best</p> <p>20 testimony today? For example, are you</p> <p>21 taking any medications that might</p> <p>22 interfere with your cognitive skills</p> <p>23 today?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. And that was over the last</p> <p>2 week or more than a week?</p> <p>3 A. Somewhere in the</p> <p>4 neighborhood of the last two weeks.</p> <p>5 Q. Okay. Was there anyone else</p> <p>6 present at the meetings you had with</p> <p>7 Ms. Vanni?</p> <p>8 A. Yes. And then you want</p> <p>9 to -- Sandra was there and --</p> <p>10 MS. REESE: Kelly Reese.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Fantastic. Okay. Was there</p> <p>13 anyone else other than counsel?</p> <p>14 A. There was -- no, there</p> <p>15 was -- other than counsel, no.</p> <p>16 Q. Okay. Was anyone joined by</p> <p>17 phone other than counsel?</p> <p>18 A. No one joined by phone, no.</p> <p>19 Q. Okay. And did you review</p> <p>20 documents in the course of your</p> <p>21 preparation for today's deposition?</p> <p>22 A. I did.</p> <p>23 Q. Did any of those documents</p> <p>24 refresh your recollection about any of</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. If at any point</p> <p>2 today, you don't understand a question</p> <p>3 that I ask, would you please let me know</p> <p>4 that?</p> <p>5 A. Be glad to.</p> <p>6 Q. Terrific. Thank you very</p> <p>7 much. Did you do anything to prepare for</p> <p>8 today's deposition?</p> <p>9 A. I met with -- I met with</p> <p>10 Ms. Vanni, yes.</p> <p>11 Q. And when was that?</p> <p>12 A. Over several days in the</p> <p>13 last couple of weeks.</p> <p>14 Q. You say several days. Was</p> <p>15 it more than two days?</p> <p>16 A. It might have been. I don't</p> <p>17 know. It depends on how you define a</p> <p>18 day.</p> <p>19 Q. On how many different days,</p> <p>20 putting aside how -- length of day, on</p> <p>21 how many different occasions did you meet</p> <p>22 with Ms. Vanni?</p> <p>23 A. I think a total of three</p> <p>24 days.</p>	<p style="text-align: right;">Page 29</p> <p>1 the events that took place when you were</p> <p>2 employed with Endo?</p> <p>3 A. I would say honestly</p> <p>4 vaguely. I didn't have some -- I didn't</p> <p>5 have some, you know, burst of memory that</p> <p>6 it all of the sudden jolted my brain that</p> <p>7 says, oh, yeah, absolutely that's crystal</p> <p>8 clear now. I mean, I -- it came back a</p> <p>9 little bit. But remember we're going</p> <p>10 back -- you know, I left Endo in -- in</p> <p>11 August of 2007, so it's -- you know, it</p> <p>12 was already going -- it's 11 and a half</p> <p>13 years. It's going on 12 years.</p> <p>14 Q. I understand.</p> <p>15 A. So a lot of the -- I started</p> <p>16 in '03. So if you add those years in,</p> <p>17 you're looking at, you know, close to</p> <p>18 16 years.</p> <p>19 Q. Understood. You said that</p> <p>20 your recollection may have been refreshed</p> <p>21 even just vaguely on some things. Can</p> <p>22 you tell me what kinds of things you have</p> <p>23 a little bit more recollection on having</p> <p>24 prepared?</p>

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<p style="text-align: right;">Page 30</p> <p>1 A. I don't have any -- I can't 2 give you specific examples. Just in 3 general terms, you know, I saw documents 4 that, you know, some dealt with the 5 brand. I had nothing to do with the 6 brand. So I was -- our focus was -- my 7 focus was on generics. 8 Q. You say you have nothing to 9 do with the brand -- I apologize. Did 10 you finish? 11 A. I think so, yes. 12 Q. I apologize. I think I 13 started to talk over you. You said you 14 had nothing to do with the brand. The 15 brand there, are you referring to Opana? 16 A. Well, just brands in 17 general. Brands -- Endo had the brand -- 18 Endo's brand division or group, which 19 was, you know, 95 percent of the company, 20 maybe more, had, you know, opioids and 21 non-opioids. But they were the brand. 22 And I didn't have anything to do with 23 that activity. So the brands were the 24 brands. And they did their things.</p>	<p style="text-align: right;">Page 32</p> <p>1 personal photographs and things of my 2 wife and kids and left. 3 Q. Okay. Terrific. Did you 4 speak with anyone else other than counsel 5 in preparation for the deposition about 6 the work that you did with Endo? 7 A. No. 8 Q. Since you left Endo, have 9 you been in touch with any of your former 10 colleagues? 11 A. No. You know, they -- I'm a 12 big believer in antitrust. And, you 13 know, we -- you know, I never -- as a 14 matter of fact I saw some yesterday when 15 I was there. And I haven't seen them in, 16 you know, 12 years, whatever it's been 17 since I left. So, no, other than I would 18 wave to them at a convention or 19 something, you know, we didn't have any 20 conversations. 21 Q. You didn't have any ongoing 22 personal relationship with anybody? 23 A. No. 24 Q. And you said that you saw</p>
<p style="text-align: right;">Page 31</p> <p>1 Completely different business in 2 generics. It's completely different 3 models, completely different everything. 4 Q. Okay. We'll look a few -- a 5 few documents later, because I think 6 we've seen some involvement that you had 7 with some of the branded products. We'll 8 look at that a little bit later. 9 In terms of preparing for 10 the deposition, did you yourself go back 11 and look at any documents on your own 12 outside of what Ms. Vanni or counsel may 13 have shown to you? 14 A. I don't have any documents 15 of my own. So there was nothing to 16 review. 17 Q. Okay. You don't keep any 18 diaries or journals that you would have 19 gone back to look at, or did you go back 20 to look at? 21 A. I don't -- I didn't -- no, I 22 don't have any of those journals or 23 diaries. Notebooks I left at Endo. When 24 I left, I left. You know, I had boxes of</p>	<p style="text-align: right;">Page 33</p> <p>1 some folks yesterday. So in the course 2 of going for preparation for the 3 deposition, you saw other folks from 4 Endo? 5 A. As I was leaving. You know, 6 as I was leaving, I got to spend five or 7 10 minutes with former colleagues that 8 were in the -- whatever department 9 they're in now, at the time they were in 10 the finance department. "Hi, how are 11 you? You know, how are you doing? You 12 look great." That kind of stuff. 13 Q. Got it. Who were those 14 folks that you said hi to? 15 A. They would have been Mary Jo 16 Magrone and it was -- the other one was 17 Jody Travis. 18 Q. And you said you recall them 19 from your time at Endo; is that right? 20 A. Yeah, they were there when I 21 left. 22 Q. And they're -- were they in 23 the finance department when you were 24 there?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. Yeah, they were in the 2 finance department. 3 Q. Okay. Got it. Anyone else 4 that you -- that you said hello to at 5 Endo? 6 A. Guy Donatiello, but he's 7 part of their legal counsel team. He was 8 the -- he was the IP lawyer then. He's 9 still the IP lawyer. 10 Q. Got it. 11 A. Not that that's a bad thing. 12 Q. It's not a bad thing at all. 13 Okay. At some point, I 14 assume you were contacted to inform you 15 that you were going to be deposed in this 16 case. Before you were contacted about 17 the deposition, had you heard about this 18 case? 19 A. Vaguely, whatever I heard in 20 the press, that you know -- to be honest, 21 not very much. 22 Q. Okay. What do you recall 23 hearing about it? 24 MS. VANNI: Object to form.</p>	<p style="text-align: right;">Page 36</p> <p>1 MS. VANNI: Object to form. 2 THE WITNESS: I understand 3 based on -- based on our meeting 4 with counsel, yes. 5 MS. VANNI: I just want 6 to -- I just want to remind you. 7 Don't disclose anything that we 8 personally discussed. 9 THE WITNESS: Yeah, yeah, 10 yeah, yeah. 11 BY MS. SCULLION: 12 Q. Okay. Outside of this 13 litigation, are you generally familiar 14 with the fact that there's an opioid 15 epidemic in the country? 16 MS. VANNI: Object to form. 17 THE WITNESS: Only what I've 18 heard on TV that there's a problem 19 with opioids. 20 MS. SCULLION: Okay. Can I 21 have the subpoena, please. 22 BY MS. SCULLION: 23 Q. Mr. Stevenson, were you 24 provided a copy of the subpoena that was</p>
<p style="text-align: right;">Page 35</p> <p>1 THE WITNESS: Just the 2 various -- the various government 3 entities were pursuing, you know, 4 different pharmaceutical 5 companies. More or less, that's 6 just it, you know. 7 BY MS. SCULLION: 8 Q. Okay. And what's your 9 understanding of what the governmental 10 entities are pursuing the companies for? 11 A. I didn't really pay that 12 much attention to it. I'm not involved 13 with opioids. You know, when I was 14 Kremers Urban, I wasn't involved in 15 opioids. Controlled drugs, yes, but not 16 opioid. 17 So, you know, I didn't -- I 18 don't believe most of the stuff that I 19 read in the press anyway. So I didn't 20 really -- I didn't really focus on it. 21 Q. Do you have -- do you have 22 an understanding that the case at its 23 core involves allegations concerning the 24 opioid epidemic in this country?</p>	<p style="text-align: right;">Page 37</p> <p>1 served in this case for your deposition 2 and documents? 3 A. I -- yes, I was -- I was 4 shown a copy, yes. Mm-hmm. 5 Q. Okay. 6 (Document marked for 7 identification as Exhibit 8 Endo-Stevenson-2.) 9 BY MS. SCULLION: 10 Q. Let me hand you what's been 11 marked as Exhibit Number 2. Exhibit 12 Number 2, Mr. Stevenson, is a copy of the 13 subpoena to testify at deposition in a 14 civil action. It's addressed to you, 15 care of Arnold &amp; Porter Kaye Scholer. Do 16 you understand that Arnold &amp; Porter Kaye 17 Scholer is also counsel for Endo in this 18 case? 19 A. Yes. 20 Q. Okay. Terrific. And is 21 the -- did you see the subpoena before 22 today's deposition? 23 A. Yes. 24 Q. All right. And you</p>

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<p style="text-align: right;">Page 38</p> <p>1 understand that in addition to asking for 2 your testimony, it asks for documents? 3 A. What kind of documents? 4 Q. Sure. Sorry. Let's go 5 to -- on the very first page of 6 Exhibit 2, you see where it says in 7 italics on the left-hand side 8 "production"? 9 A. Yes. 10 Q. And it says, "You or your 11 representative must produce the 12 documents, electronically-stored 13 information, or objects identified in 14 Attachment A prior to the date of the 15 deposition but no later than February 10, 16 2019." 17 Do you see that? 18 A. Yes. 19 Q. Okay. And if you turn back 20 in Exhibit 2 to what's labeled at the top 21 Attachment A. 22 A. Yes. 23 Q. And then you'll see that 24 page, and then really the next page under</p>	<p style="text-align: right;">Page 40</p> <p>1 materials or educational materials from 2 Endo at home? 3 A. No. 4 Q. Okay. 5 A. Because first of all, in 6 generics, we don't do promotion. 7 Generics is a different business. 8 That's -- the brand business does 9 promotion. 10 And we didn't have any 11 educational -- that's what the brand 12 does. They had educational material when 13 they called on physicians or whatever 14 they have in their -- you know, in their 15 arsenal when they visited physicians. 16 But in generics we didn't have that. You 17 know, it's generics. It's more of a 18 shoestring operation from a cost 19 standpoint, pricing standpoint. So all 20 those things which are very expensive 21 would not be in the generics business. 22 Q. And again, do you recall 23 though that with respect to the generic 24 OxyContin product that Endo did sell for</p>
<p style="text-align: right;">Page 39</p> <p>1 Roman Numeral II, documents requested, 2 there's five categories of documents. 3 The question is just, did 4 you search for documents that might be 5 responsive to the subpoena? 6 A. I never had a personal 7 e-mail. I only got one when I stopped 8 working at Kremers Urban as the president 9 and CEO. I never had one before that. 10 So whatever was on my e-mail was at Endo. 11 I left it there. And they have it all. 12 So I never stored -- for that very 13 reason. I didn't want to have documents 14 at home. 15 Q. Okay. 16 A. I don't have any documents 17 to search for. 18 Q. Terrific. And then at the 19 bottom of that same page, it asks for 20 tangible things, Roman Numeral III, 21 tangible things. 22 A. Yes. 23 Q. The question here is, did 24 you have any samples of promotional</p>	<p style="text-align: right;">Page 41</p> <p>1 a period of time, there were certain 2 educational materials that were created 3 and distributed? 4 A. There -- there, you know, my 5 recollection is there was or there could 6 have been. But I wouldn't have been 7 involved in that. That was -- you know, 8 and Endo was very segregated by function. 9 So pharmacovigilance and the operational 10 people and the medical people, they all 11 did that kind of stuff. And as a matter 12 of fact by rule, you don't want any 13 commercial people in that. You want it 14 all to be on scientific basis. That's 15 the way most Pharma companies, and 16 companies set it up. 17 So the commercial people, 18 which I was considered more on the 19 commercial side, aren't involved in -- in 20 any of that. So there could have been 21 educational things developed at the time. 22 It's a long time ago. Yes, I was 23 involved in oxycodone ER, which is the 24 generic name for OxyContin. But I did</p>

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<p>1 not, you know, draft any of that. That</p> <p>2 was all done, if it was done, was done by</p> <p>3 other people in the company that had --</p> <p>4 it was based on their scientific</p> <p>5 expertise, MDs, et cetera, that were</p> <p>6 involved in that.</p> <p>7 Q. So you referred to a rule to</p> <p>8 separate out the commercial and</p> <p>9 educational aspects --</p> <p>10 A. There -- yeah.</p> <p>11 Q. Sorry. Can you explain</p> <p>12 what -- what rule you are referring to?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: Well, you</p> <p>15 know, it's not so much of a rule.</p> <p>16 Let's say it was a policy where,</p> <p>17 you know, they wanted -- the</p> <p>18 company wanted, and most companies</p> <p>19 want this, they want the</p> <p>20 commercial people to stay away</p> <p>21 from scientific endeavors. Okay.</p> <p>22 So whether it's a risk management</p> <p>23 program or whether it's</p> <p>24 educational materials, it's very</p>	<p>1 Q. Okay. And just to make sure</p> <p>2 we are on the same page, when you talk</p> <p>3 about educational materials, would that</p> <p>4 include unbranded educational materials?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: That's why I</p> <p>7 don't recall that it would have</p> <p>8 been -- normally on -- if they did</p> <p>9 it, it might have been for what's</p> <p>10 called a CE program, you know, or</p> <p>11 something like that.</p> <p>12 It's also done -- again, the</p> <p>13 CE program and who writes that is</p> <p>14 separate from commercial because</p> <p>15 it's based on the science of the</p> <p>16 product. We may have done some of</p> <p>17 that, I just don't recall.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Okay. And what's your</p> <p>20 understanding of why there was the policy</p> <p>21 to separate the commercial from the</p> <p>22 educational and science aspects as you</p> <p>23 were just discussing?</p> <p>24 A. It's normally done in order</p>
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<p>1 specific and it's based on the</p> <p>2 label of the product, it's a --</p> <p>3 this is -- FDA is a very</p> <p>4 complicated, you know, process.</p> <p>5 And -- and the FDA, when they</p> <p>6 approve your product, your product</p> <p>7 is approved based -- and a label</p> <p>8 is approved. Effectively when you</p> <p>9 get the product approved, the</p> <p>10 label for use is approved.</p> <p>11 And based on that,</p> <p>12 educational materials are</p> <p>13 developed based on that label.</p> <p>14 And they wanted -- and Endo was</p> <p>15 not an exception. Other companies</p> <p>16 have done it as well. That</p> <p>17 information, they wanted the</p> <p>18 scientific people, MDs,</p> <p>19 pharmacovigilance people, to work</p> <p>20 on those kinds of products. And</p> <p>21 if there was educational materials</p> <p>22 developed, that's who would have</p> <p>23 done it.</p> <p>24 BY MS. SCULLION:</p>	<p>1 that the information presented is based</p> <p>2 on the science without influence from the</p> <p>3 commercial people. So if you -- not that</p> <p>4 I would have influenced them. But just</p> <p>5 as a policy or an approach, most</p> <p>6 companies don't want to have any</p> <p>7 association where commercial is involved</p> <p>8 in -- in, you know, that kind of</p> <p>9 activity. Because, you know, the feeling</p> <p>10 is that somehow it taints the product and</p> <p>11 makes it more of a commercial slant.</p> <p>12 So most, most companies, and</p> <p>13 Endo was no exception, have, and I've</p> <p>14 seen it described as a firewall between</p> <p>15 the commercial people and the scientific</p> <p>16 people with respect to what you are</p> <p>17 discussing.</p> <p>18 Q. And again, your</p> <p>19 understanding is that firewall is because</p> <p>20 you don't want to taint the educational</p> <p>21 materials with a commercial slant?</p> <p>22 A. Right.</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: Not that that</p>

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1 would happen, but, you know, the  
 2 idea is if they are not involved,  
 3 there's no -- there's no  
 4 possibility of that happening.  
 5 BY MS. SCULLION:  
 6 Q. Got it. Okay.  
 7 All right. You mentioned  
 8 that you left Endo in August of 2007.  
 9 And just to be sure, do you have any  
 10 current financial connections with Endo  
 11 or Par?  
 12 A. No.  
 13 Q. All right. Do you hold any  
 14 stock in either company?  
 15 A. No.  
 16 Q. Okay. Are you being paid  
 17 for your time in connection with this  
 18 deposition at all?  
 19 A. No. I tried, but no.  
 20 Q. Good for you.  
 21 A. But I'll take -- I'll  
 22 definitely take a donation if you want to  
 23 make one.  
 24 Q. Well, do you have an

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1 expectation of being paid in connection  
 2 with your testimony?  
 3 A. No. In all seriousness, no.  
 4 Q. Okay. And I -- I heard what  
 5 you said, but just so we're clear on the  
 6 record. You have no expectation of  
 7 anyone making a donation to anyone on --  
 8 on your behalf --  
 9 A. No.  
 10 Q. -- in connection with the  
 11 deposition?  
 12 A. I'm not expecting any  
 13 remuneration from anybody.  
 14 Q. Okay. Okay. That has come  
 15 up in recent cases. That's why I asked  
 16 the question. Not in this case.  
 17 MS. SCULLION: Sandra is  
 18 looking at me like what is she  
 19 talking about.  
 20 MS. VANNI: Yeah.  
 21 BY MS. SCULLION:  
 22 Q. [REDACTED]  
 23 [REDACTED]  
 24 [REDACTED]

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1 [REDACTED]  
 2 [REDACTED]  
 3 [REDACTED]  
 4 [REDACTED]  
 5 [REDACTED]  
 6 [REDACTED]  
 7 [REDACTED]  
 8 [REDACTED]  
 9 [REDACTED]  
 10 [REDACTED]  
 11 [REDACTED]  
 12 [REDACTED]  
 13 [REDACTED]  
 14 [REDACTED]  
 15 Q. Okay. And -- and by  
 16 definition, they're also not in any  
 17 opioids, correct?  
 18 A. No. No opioids.  
 19 Q. All right. Okay. Do you  
 20 currently have any positions in any  
 21 industry groups other than being a member  
 22 of any industry group?  
 23 A. Nope.  
 24 Q. Are you -- are you currently

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1 personally a member of any industry  
 2 groups?  
 3 A. No. I get an e-mail  
 4 everyday about the generic industry. I  
 5 still get it from the -- the successor to  
 6 GPhA, it's now called Association of  
 7 Accessible Medicines. I still get their  
 8 daily brief or whatever it's called. But  
 9 just, you know, that's it.  
 10 Q. Is that still called The  
 11 Pink Sheet?  
 12 A. No. They have -- they have  
 13 an update on everything in the  
 14 pharmaceutical business or generic  
 15 business and...  
 16 Q. Okay. Let's go back to  
 17 Exhibit Number 1, your CV.  
 18 A. Sure.  
 19 Q. And as we go through today,  
 20 just, it will help to keep a pile of  
 21 exhibits. Because we might come back to  
 22 them.  
 23 A. Okay.  
 24 Q. Just to give you the



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<p style="text-align: right;">Page 50</p> <p>1 heads-up there.</p> <p>2 So just -- just starting</p> <p>3 back on the last page of Exhibit 1,</p> <p>4 you -- you, it looks like, were born and</p> <p>5 raised in Philly?</p> <p>6 A. No. Actually I was born in</p> <p>7 Haddington, Scotland, but --</p> <p>8 Q. Okay.</p> <p>9 A. -- I was six weeks old when</p> <p>10 I came over. My parents came over.</p> <p>11 Q. Terrific. And then you were</p> <p>12 raised here?</p> <p>13 A. Yeah, I grew up in Northeast</p> <p>14 Philadelphia.</p> <p>15 Q. Okay. And you -- then you</p> <p>16 went to St. Joe's?</p> <p>17 A. Yes.</p> <p>18 Q. And on to Drexel, right?</p> <p>19 A. Yeah.</p> <p>20 Q. All right. I also see that</p> <p>21 you, for a period -- good period of time,</p> <p>22 you were an associate professor at Drexel</p> <p>23 for economics and marketing; is that</p> <p>24 right?</p>	<p style="text-align: right;">Page 52</p> <p>1 products, right?</p> <p>2 A. No opioids, no.</p> <p>3 Q. Okay. And then you went to</p> <p>4 United Research Laboratories, right?</p> <p>5 A. Correct.</p> <p>6 Q. It says you were group</p> <p>7 manager for contracts, marketing, and</p> <p>8 pricing. Did -- did that position have</p> <p>9 anything to do with any opioid products?</p> <p>10 A. We may have had a C-V or</p> <p>11 C-IV drug. But, you know, it's a long</p> <p>12 time ago. I don't remember.</p> <p>13 Q. Okay.</p> <p>14 A. It was -- we didn't have</p> <p>15 C-II.</p> <p>16 Q. And just so we're all clear,</p> <p>17 C-II, C-IV, C-V, these are references to</p> <p>18 the schedules under the federal</p> <p>19 Controlled Substances Act, correct?</p> <p>20 A. Right, yes.</p> <p>21 Q. And C-II, that is a fairly</p> <p>22 restricted category that's scheduled,</p> <p>23 correct?</p> <p>24 A. Very restricted.</p>
<p style="text-align: right;">Page 51</p> <p>1 A. 15 years, yeah.</p> <p>2 Q. Terrific. And did you</p> <p>3 include teaching there on pharmaceutical</p> <p>4 marketing?</p> <p>5 A. No, no, no. I taught</p> <p>6 economics. I taught undergraduate --</p> <p>7 well, the marketing was related into a</p> <p>8 couple economics courses. It wasn't a</p> <p>9 direct marketing course.</p> <p>10 Q. Okay.</p> <p>11 A. It was mostly microeconomics</p> <p>12 and macroeconomics, and then some</p> <p>13 international business courses which were</p> <p>14 more marketing oriented so that's why I</p> <p>15 wrote that.</p> <p>16 Q. Terrific. Okay. And then</p> <p>17 just looking back at your employment</p> <p>18 history, you start off at ASTM, right,</p> <p>19 for a period?</p> <p>20 A. Correct.</p> <p>21 Q. You went onto SUN Company?</p> <p>22 A. Right.</p> <p>23 Q. Neither of those positions</p> <p>24 obviously involved any -- any opioid</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Okay. And we're going to</p> <p>2 talk about them more, but some of the</p> <p>3 products that you were involved with at</p> <p>4 Endo were -- were C-II products, correct?</p> <p>5 A. Correct.</p> <p>6 Q. So Endocet was a C-II</p> <p>7 product, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Sorry. Morphine sulfate</p> <p>10 extended-release was a C-II, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Generic oxycodone ER was a</p> <p>13 C-II, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And then we -- we</p> <p>16 said Endocet, Endo was also selling</p> <p>17 Percocet at the time you were working</p> <p>18 with them?</p> <p>19 A. That was the brand.</p> <p>20 Q. Right.</p> <p>21 A. Okay.</p> <p>22 Q. That was a brand. That was</p> <p>23 a C-II, correct?</p> <p>24 A. Yes.</p>

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<p>1 Q. All right. And that was the</p> <p>2 brand equivalent of Endocet, right?</p> <p>3 A. Well, actually Endocet was</p> <p>4 the generic equivalent of Percocet.</p> <p>5 That's --</p> <p>6 Q. Well put. Okay.</p> <p>7 And -- and each of those,</p> <p>8 they were an oxycodone APAP combo</p> <p>9 product; is that right?</p> <p>10 A. Oxycodone IR was</p> <p>11 acetaminophen, or APAP combo product,</p> <p>12 yeah.</p> <p>13 Q. Right. Thank you.</p> <p>14 A. For -- with respect to</p> <p>15 Endocet.</p> <p>16 Q. Understood.</p> <p>17 A. And Percocet.</p> <p>18 Q. Right.</p> <p>19 A. Percocet was -- was the</p> <p>20 brand name for the generic chemical</p> <p>21 entity.</p> <p>22 Q. Right. And then I mentioned</p> <p>23 earlier Opana. You recall that while you</p> <p>24 were employed with Endo, it sold two</p>	<p>1 Q. Okay. And -- but you recall</p> <p>2 that Opana and Opana ER were also C-II</p> <p>3 products?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Okay. So sorry.</p> <p>6 So after your position at</p> <p>7 United Research Labs, you then joined</p> <p>8 Apothecon, which was a division of</p> <p>9 Bristol-Myers Squibb, correct?</p> <p>10 A. Yeah. Mm-hmm.</p> <p>11 Q. All right. And you were</p> <p>12 there from 1996 to 2000, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And your time there did not</p> <p>15 involve any controlled substances,</p> <p>16 correct?</p> <p>17 A. No controlled substances.</p> <p>18 Q. Okay. And then moving ahead</p> <p>19 to Page 2 of your CV.</p> <p>20 A. Excuse me. Can I go back?</p> <p>21 Q. Yes, go ahead. Absolutely.</p> <p>22 A. You -- controlled substances</p> <p>23 or opioids?</p> <p>24 Q. Let's just start with --</p>
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<p>1 products, one called Opana, and another</p> <p>2 one called Opana ER?</p> <p>3 A. I had nothing -- yeah, I --</p> <p>4 they were selling it, but I had nothing</p> <p>5 to do with that.</p> <p>6 Q. Okay. And I'm just -- if</p> <p>7 you can just answer the questions as I</p> <p>8 ask them. I -- if you don't have</p> <p>9 anything to do with it, you'll let me</p> <p>10 know. But I'm just making sure you</p> <p>11 recall that they sold those products.</p> <p>12 A. Yes. Yeah.</p> <p>13 Q. Okay.</p> <p>14 A. So the -- the answer, to be</p> <p>15 clear, they sold the products --</p> <p>16 Q. Right.</p> <p>17 A. -- that was the brand</p> <p>18 people.</p> <p>19 Q. Right.</p> <p>20 A. I didn't have anything to do</p> <p>21 with generics.</p> <p>22 Q. Okay.</p> <p>23 A. So it wasn't a generic</p> <p>24 product.</p>	<p>1 let's talk about opioids. Any opioids</p> <p>2 at -- at Apothecon?</p> <p>3 A. No. For the record, they</p> <p>4 did have a controlled substance which was</p> <p>5 methylphenidate which is a C-II, but it's</p> <p>6 for attention deficit.</p> <p>7 Q. Thank you very much. I</p> <p>8 appreciate that.</p> <p>9 And then you joined, after</p> <p>10 Apothecon, you joined Sandoz, correct?</p> <p>11 A. Yes.</p> <p>12 Q. All right. And at Sandoz</p> <p>13 did you have responsibility for any</p> <p>14 opioid products?</p> <p>15 A. No. I have to think about</p> <p>16 it. Excuse me, I have to think about it</p> <p>17 for one moment.</p> <p>18 Q. Sure.</p> <p>19 A. I would say no.</p> <p>20 Q. Okay. If at any -- if at</p> <p>21 some point today, it occurs to you, will</p> <p>22 you just let me know?</p> <p>23 A. Be glad to.</p> <p>24 Q. Okay. Thanks a lot.</p>



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<p style="text-align: right;">Page 58</p> <p>1 And then -- and then after</p> <p>2 Sandoz, you joined Endo Pharmaceuticals.</p> <p>3 And that was in 2003, correct?</p> <p>4 A. That's correct.</p> <p>5 Q. All right. And you stayed</p> <p>6 with Endo, you said, August 2007, right?</p> <p>7 A. Correct.</p> <p>8 Q. And were you vice president</p> <p>9 generics business and trade affairs for</p> <p>10 that entire period?</p> <p>11 A. No. I was the vice -- I was</p> <p>12 vice president of generics for the entire</p> <p>13 period. The trade affairs was the last,</p> <p>14 I would say, nine months or so, ten</p> <p>15 months. They had, like, a little</p> <p>16 reorganization at the time. At the time</p> <p>17 when I arrived at Endo -- and this is</p> <p>18 just for the record, but, you know, when</p> <p>19 I arrived at Endo, they had a director of</p> <p>20 corporate accounts. And they -- under</p> <p>21 corporate accounts, they had managed care</p> <p>22 accounts, which, you know, for people who</p> <p>23 don't know who they are, they're the</p> <p>24 Aetnas, CIGNAs and United Healthcare and</p>	<p style="text-align: right;">Page 60</p> <p>1 let's say, November or somewhere in that</p> <p>2 time frame of '06 until the time I left,</p> <p>3 I then had trade affairs.</p> <p>4 Q. Okay. And you've used the</p> <p>5 terms trade and retail. Those refer to</p> <p>6 the same thing, and that is the chains?</p> <p>7 A. Chains and wholesalers,</p> <p>8 yeah.</p> <p>9 Q. Okay.</p> <p>10 A. They're commonly called the</p> <p>11 trade.</p> <p>12 Q. Okay. And so you -- so I</p> <p>13 just want to make sure I understand. So</p> <p>14 the trade/retail would include, as you</p> <p>15 said, wholesalers like AmerisourceBergen,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. McKesson?</p> <p>19 A. Correct.</p> <p>20 Q. Cardinal Health?</p> <p>21 A. Cardinal Health.</p> <p>22 Q. All right. Would it also</p> <p>23 include the national chains such as Rite</p> <p>24 Aid?</p>
<p style="text-align: right;">Page 59</p> <p>1 Blue Cross Blue Shields kind of accounts.</p> <p>2 They're called managed care.</p> <p>3 And then they had what's</p> <p>4 called the trade accounts, which are the</p> <p>5 wholesalers, AmerisourceBergen, McKesson,</p> <p>6 those kind of accounts, plus the chains,</p> <p>7 the CVS, Walgreens, Rite Aids of the</p> <p>8 world. And they had that all under</p> <p>9 corporate accounts.</p> <p>10 When the director of</p> <p>11 corporate accounts left, which I believe,</p> <p>12 from my recollection, is sometime in late</p> <p>13 2006, to pursue another opportunity, the</p> <p>14 feeling at the time was to segregate the</p> <p>15 retail accounts from the managed care</p> <p>16 accounts because they wanted to have more</p> <p>17 of a focus on managed care. And they</p> <p>18 thought the retail accounts were a</p> <p>19 distraction to managed care for the</p> <p>20 individuals involved. So because of my</p> <p>21 knowledge and experience in retail</p> <p>22 accounts, they asked me to have those</p> <p>23 three people report to me.</p> <p>24 So for the last -- from,</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Yes.</p> <p>2 Q. Walgreens?</p> <p>3 A. Yes.</p> <p>4 Q. Walmart?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So now I think I have</p> <p>7 an understanding of what we are talking</p> <p>8 about.</p> <p>9 A. And all that's commonly</p> <p>10 called, for ease of -- for those of us in</p> <p>11 the business, the trade.</p> <p>12 Q. Fantastic. Okay.</p> <p>13 And before taking on the</p> <p>14 responsibilities for -- formally as --</p> <p>15 for trade affairs, had you had experience</p> <p>16 working with the trade in the past, I</p> <p>17 think you said?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. All right. How did</p> <p>20 you come to join Endo in 2003?</p> <p>21 A. I was recruited.</p> <p>22 Q. Who recruited you?</p> <p>23 A. Oh, I don't remember. It</p> <p>24 was a recruiting firm in Philadelphia.</p>

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<p style="text-align: right;">Page 62</p> <p>1 Q. Okay. It wasn't anyone 2 specific at Endo that recruited you? 3 A. No. 4 Q. Did you know anyone at Endo 5 before you joined? 6 A. I might have known them from 7 being in the business. You know, I 8 may -- oh, yeah, they are at Endo. No, I 9 didn't have any personal relationship 10 with anybody. 11 Q. Okay. When you -- when you 12 did join Endo, did was there anyone 13 specific within Endo who hired you? 14 A. The decision was made by 15 Peter Lankau, who was the CEO of the 16 company. 17 Q. Okay. When you joined Endo, 18 was Carol Ammon still with the company? 19 A. Yes, actually, I misspoke. 20 Carol Ammon was the president and CEO, 21 and Peter was the VP of business 22 operations. But Carol was phasing out, 23 and Peter was going to become the new 24 CEO. So I said he was the CEO of the</p>	<p style="text-align: right;">Page 64</p> <p>1 strategies, yeah. 2 BY MS. SCULLION: 3 Q. And you said you left Endo 4 in August of 2007. Why did you leave 5 Endo? 6 A. The opportunity to become 7 the president and CEO of Kremers Urban 8 Pharmaceuticals. 9 Q. Were you asked to leave 10 Endo? 11 A. No. 12 Q. Did anyone suggest that you 13 leave Endo? 14 A. No. Came, I think, as a 15 complete shock that I left. 16 Q. And as you said, then you 17 went straight from Endo to Kremers Urban, 18 correct? 19 A. Right. They were a 20 subsidiary of UCB, which is a 21 Brussels-based biotech. We were the 22 generic division of the United States. 23 Q. And you stayed with Kremers 24 Urban for about 11 years, through 2016.</p>
<p style="text-align: right;">Page 63</p> <p>1 company. He was responsible the 2 hiring -- for my hiring into the company. 3 Q. Okay. Carol Ammon, she was 4 one of the cofounders of Endo; is that 5 right? 6 A. Yes. 7 Q. Right. Had you -- did you 8 meet with her personally when you worked 9 at Endo? 10 A. Oh, yes. Yes. I went 11 through the interview process with her. 12 Q. Fair to say Ms. Ammon was 13 very knowledgeable about her business? 14 MS. VANNI: Objection to 15 form. 16 THE WITNESS: She was very 17 knowledgeable, yes. 18 BY MS. SCULLION: 19 Q. She was, to your knowledge, 20 pretty involved in the strategies that 21 helped get Endo off the ground? 22 MS. VANNI: Object to form. 23 THE WITNESS: I would say 24 she was knowledgeable in the</p>	<p style="text-align: right;">Page 65</p> <p>1 I'm sorry, nine years to 2016. 2 A. Yes. 3 Q. Bad math. Sorry about that. 4 A. That's all right. It's 5 okay. You're forgiven. 6 Q. Thank you. And you were 7 president and CEO there, as you said, 8 correct? 9 A. Correct. 10 Q. Did Kremers Urban 11 Pharmaceuticals, while you were president 12 and CEO, sell any opioid products? 13 A. No. 14 Q. And did it have any 15 relationship with Endo during that 16 period? 17 A. No. 18 Q. With Par? 19 A. No. 20 Q. And then you left Kremers 21 Urban -- I'm sorry, when did you leave 22 Kremers Urban? It says 2016. But when? 23 A. [REDACTED] 24 [REDACTED]</p>

17 (Pages 62 to 65)

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Page 66

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

Page 68

1 identification as Exhibit

2 Endo-Stevenson-3.)

3 BY MS. SCULLION:

4 Q. I want to hand you what's

5 been marked as Exhibit Number 3.

6 A. Okay.

7 Q. And, Mr. Stevenson, do you

8 see Exhibit Number 3 is, I'll represent

9 to you it's a printout from GeneriCo's

10 website. It's a description of the board

11 of directors. Have you seen this before?

12 A. Probably. Not in printed

13 form. But yes.

14 Q. All right. You see at the

15 bottom of the first page, the heading,

16 board of directors, and on the left-hand

17 side, that's you, George R. Stevenson,

18 chairman of the board, correct?

19 A. That's me, yes.

20 Q. All right. And then there's

21 a brief bio under your name that starts

22 at the bottom of the first page, and it

23 continues onto the next page. I just

24 want to confirm that you agree with

Page 67

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. No opioids.

18 Q. Is it working on any opioid

19 products, without specifying?

20 A. No, they're not.

21 Q. All right.

22 MS. SCULLION: Could I have

23 Tab 62, please.

24 (Document marked for

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1 what's stated in the bio here.

2 It says in the second

3 sentence, "Mr. Stevenson brings deep

4 generic and brand pharmaceutical

5 experience to the GeneriCo board and is a

6 seasoned and successful executive with

7 over 20 years of leadership in this

8 dynamic marketplace."

9 That's an accurate

10 characterization of you, correct?

11 A. Yes. I understand the brand

12 business, yes. So yeah, I would say yes,

13 that's -- that's accurate.

14 Q. If you'll go a little

15 further down the bio sort of summarizes

16 your work experience. If you go towards

17 the bottom of the bio. It says, "As vice

18 president of Endo generic products,

19 George was charged with full

20 responsibility for the generics business

21 including strategy, account management,

22 marketing, and the identification and

23 development of new products."

24 Is that also an accurate

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<p style="text-align: right;">Page 70</p> <p>1 description of your time at Endo?</p> <p>2 A. Yes.</p> <p>3 Q. Can you just explain to me,</p> <p>4 when it refers here to marketing in the</p> <p>5 generics business, what did that mean,</p> <p>6 when you were at Endo?</p> <p>7 A. It doesn't mean -- there's a</p> <p>8 difference -- what it means is that it</p> <p>9 mostly deals with the pricing and getting</p> <p>10 business into accounts. It's not what</p> <p>11 normally is referred to as marketing like</p> <p>12 on the brand side where there's</p> <p>13 promotion. There's no promotional in</p> <p>14 generics because you're competing against</p> <p>15 yourself. There's normally no more than</p> <p>16 one. So there's no sense in promotion.</p> <p>17 There's no sales -- there's no sales, you</p> <p>18 know, paraphernalia that's given out.</p> <p>19 There's no representation to doctors.</p> <p>20 On the brand side, they have</p> <p>21 thousands or hundreds or whatever number</p> <p>22 of sales reps that are calling</p> <p>23 physicians. On generics, we had three</p> <p>24 national account executives.</p>	<p style="text-align: right;">Page 72</p> <p>1 earlier, helped develop those, or</p> <p>2 developed those, based on the</p> <p>3 FDA-approved label, okay, so -- otherwise</p> <p>4 they can get in big trouble.</p> <p>5 So you can only promote</p> <p>6 what's on the label. You cannot promote</p> <p>7 anything other than what's on the label.</p> <p>8 Q. Right.</p> <p>9 A. So that's what they do.</p> <p>10 Yes.</p> <p>11 Q. All right. And just to make</p> <p>12 sure we are on the same page on promoting</p> <p>13 according to the label. I mean, I've</p> <p>14 heard the phrase that the label defines</p> <p>15 the product, is that something you've</p> <p>16 heard?</p> <p>17 MS. VANNI: Object to form.</p> <p>18 THE WITNESS: Yeah.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Yeah?</p> <p>21 A. I would say some people use</p> <p>22 that phrase, yeah.</p> <p>23 Q. Okay. And -- and it's very</p> <p>24 clear that a company cannot promote its</p>
<p style="text-align: right;">Page 71</p> <p>1 So marketing and generics is</p> <p>2 completely different than what is</p> <p>3 normally involved in the brand; however,</p> <p>4 the marketing is, make sure people know</p> <p>5 you have the product, that you're coming</p> <p>6 with the product. And it's more getting</p> <p>7 the product placed in the trade accounts,</p> <p>8 as we described them earlier.</p> <p>9 Essentially in generics,</p> <p>10 that's what marketing is.</p> <p>11 Q. Okay. So if I understand</p> <p>12 you correctly, on the brand side, there's</p> <p>13 marketing that takes the form of sales</p> <p>14 representatives, for example, going out</p> <p>15 to detail healthcare providers about the</p> <p>16 product, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And they might be</p> <p>19 using specific promotional materials in</p> <p>20 the course of doing that?</p> <p>21 A. Yeah. They would use</p> <p>22 specific promotional materials, which are</p> <p>23 very strictly controlled. Where the</p> <p>24 scientific people, we talked about</p>	<p style="text-align: right;">Page 73</p> <p>1 product inconsistent with what's in the</p> <p>2 label approved by the FDA, correct?</p> <p>3 MS. VANNI: Object to form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Okay. To do that is called</p> <p>7 off-label marketing, correct?</p> <p>8 A. Yes.</p> <p>9 Q. It's unlawful, correct?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. Would you agree that it's</p> <p>14 also unethical?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: It's a</p> <p>17 judgment call. I guess so. I --</p> <p>18 I don't know. I wasn't involved</p> <p>19 in it.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. Okay.</p> <p>22 A. So, you know, in every</p> <p>23 Pharma company I worked at, they went to</p> <p>24 great lengths, okay. I was part of the</p>

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<p style="text-align: right;">Page 74</p> <p>1 brand Pharma company in Bristol-Myers 2 Squibb, in Sandoz -- Geneva Sandoz was 3 part of Novartis, at Endo, wherever it 4 was, the brand company went to great 5 lengths and spent tremendous amounts of 6 money to make sure that the sales reps 7 promoted according to the label. 8 And anybody who went off 9 that script was -- was severely punished, 10 including -- up to and including 11 termination. 12 Q. Okay. 13 A. And actually went to great 14 lengths, I know at Endo, in monitoring 15 that kind of activity to make sure that 16 did not occur. Because Endo, in the big 17 scheme of things, was not that big a 18 company and they couldn't -- they didn't 19 want to have any issues along the lines 20 you described. 21 So most pharmaceutical 22 companies take the same approach. They 23 go to great lengths to ensure that that 24 off-label promotion does not happen.</p>	<p style="text-align: right;">Page 76</p> <p>1 before. When I was at Kremers, we did 2 that where, you know, under a CDA, a 3 large account, we would tell them this is 4 what we're working on in the pipeline, to 5 get their reaction, is that something 6 they'd be interested in. And also to let 7 them know it was coming, you know, so 8 that they -- that's the kind of 9 marketing. 10 We did some reminder ads in 11 journals which were, you know, they were 12 very expensive. In the case of Endo, I 13 remember they -- you know, they called 14 them three-piece, three-piece entities 15 because of all the different things that 16 had to go into the ads because they 17 were -- it was -- it was an opioid, which 18 was standard. So we didn't run that many 19 of them, because it was -- it was 20 expensive. You know, 30-, 40,000. In 21 the generics business that's -- that's a 22 lot of money. The ad budget is not 23 that -- normally not that high. 24 So, yeah, that's the kind</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. Okay. Now, as you said, 2 when you were at Endo, you were not 3 personally professionally involved in the 4 sales and promotion of the branded 5 products, correct? 6 A. Correct. 7 Q. Okay. So then, that was 8 describing the marketing for branded. 9 Then you were explaining to me what 10 marketing means on the generic side. 11 To make sure I understand, 12 that involves marketing to the trade 13 accounts in order to, to what, to be 14 stocked by them, to placed by them? What 15 are you marketing them for? 16 A. Yeah. You know, we -- yeah, 17 that they know we have the product, 18 that -- that we're always searching for 19 opportunities to get product, you know, 20 does somebody need product, do they not 21 like their current supplier. You know, 22 under CDA we would tell them about future 23 products. I don't know if we did that at 24 Endo, but, you know, I'd done that</p>	<p style="text-align: right;">Page 77</p> <p>1 of, you know, pricing, you know, we 2 talked about pricing and how we can, you 3 know, work something involving getting -- 4 with our product to make sure that if we 5 were challenged by our competition, you 6 know, how we could retain the business 7 and -- and customer relations, customer 8 interaction. That was -- in generic, 9 more or less, that's what marketing is. 10 Q. Okay. And I'm sorry, you 11 mentioned a CDA. Is that like a 12 confidentiality agreement? 13 A. Confidentiality, yeah. 14 Q. Great, thanks. And I think 15 you were explaining to me that in terms 16 of getting and retaining the trade 17 business, that one of the important 18 things you were focused on was the 19 relationship with that trade customer, 20 correct? 21 MS. VANNI: Object to form. 22 THE WITNESS: Yes. 23 BY MS. SCULLION: 24 Q. And that -- that was true</p>



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<p style="text-align: right;">Page 78</p> <p>1 while you were at Endo?</p> <p>2 A. It's been true before Endo</p> <p>3 and after Endo and at Endo.</p> <p>4 Q. Okay. And is -- was part of</p> <p>5 the relationship providing educational</p> <p>6 materials that could be used for example,</p> <p>7 at pharmacies?</p> <p>8 A. No.</p> <p>9 Q. Okay. Did --</p> <p>10 MS. SCULLION: I thought the</p> <p>11 door was opening, it's not.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. Did -- did Endo -- strike</p> <p>14 that. We'll look at some of the</p> <p>15 documents in a bit.</p> <p>16 MS. SCULLION: Can I have</p> <p>17 Tabs 26 and 27, please.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. I want to go back and talk</p> <p>20 more about your -- your role at Endo and</p> <p>21 what it entailed. Hopefully I'm not</p> <p>22 going to knock the computer out with my</p> <p>23 binder here.</p> <p>24 Okay.</p>	<p style="text-align: right;">Page 80</p> <p>1 product is stocked.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q. And -- I'm sorry.</p> <p>4 A. So there was no promotional</p> <p>5 activity by the national account</p> <p>6 executives to anybody.</p> <p>7 Q. But you -- but you had</p> <p>8 responsibility for the national account</p> <p>9 executives getting Opana, and Opana ER to</p> <p>10 be clear, stocked in the trade accounts,</p> <p>11 correct?</p> <p>12 MS. VANNI: Object to form.</p> <p>13 THE WITNESS: To be honest,</p> <p>14 getting them stocked when they --</p> <p>15 I don't know if I had assumed</p> <p>16 the -- I don't remember from the</p> <p>17 time when I took over trade</p> <p>18 affairs, whether or not Opana had</p> <p>19 launched or didn't launch. I</p> <p>20 don't remember that.</p> <p>21 So if it -- if it hadn't</p> <p>22 launched, then yes. If not, then</p> <p>23 I just took over the role of</p> <p>24 supervising them.</p>
<p style="text-align: right;">Page 79</p> <p>1 MS. SCULLION: Why don't you</p> <p>2 mark 27 and then 26.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. So I think you were</p> <p>5 explaining to me that you didn't have</p> <p>6 promotional responsibility for any of the</p> <p>7 brand products. But you were involved in</p> <p>8 helping get Opana, for example, stocked</p> <p>9 in the trade accounts, correct?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: This -- the</p> <p>12 role of the national account</p> <p>13 executives that visit the trade</p> <p>14 accounts, their -- their role on</p> <p>15 the brand side is to make sure the</p> <p>16 account is stocked. That's all</p> <p>17 they do. They make sure their</p> <p>18 account is stocked with the</p> <p>19 product. Because if you don't</p> <p>20 have the product in the account,</p> <p>21 you can't sell it. And so their</p> <p>22 job -- that's all the national</p> <p>23 account executives do on the brand</p> <p>24 side, is they make sure the</p>	<p style="text-align: right;">Page 81</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Okay.</p> <p>3 A. And it wasn't -- their role</p> <p>4 in the brand side was, if I had to divide</p> <p>5 their time, their time was generics.</p> <p>6 They were there to work on generics.</p> <p>7 The brand -- their brand</p> <p>8 role was a de minimus kind of role. It</p> <p>9 wasn't that significant, other than the</p> <p>10 stocking.</p> <p>11 Q. Okay.</p> <p>12 (Document marked for</p> <p>13 identification as Exhibit</p> <p>14 Endo-Stevenson-4.)</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Let me show you what's been</p> <p>17 marked as Exhibit 4. And we may be out</p> <p>18 of order here, but we'll get to it in</p> <p>19 terms of exhibit numbers.</p> <p>20 MS. SCULLION: Is it good?</p> <p>21 Okay.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Mr. Stevenson, I've handed</p> <p>24 you Exhibit 4. And for the record, the</p>

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<p>1 Bates number is ENDO-OPIOID_MDL-00860303.</p> <p>2 And just so you know, I'm</p> <p>3 just reading the small numbers in the</p> <p>4 bottom right corner for the record, so</p> <p>5 people on the phone can follow.</p> <p>6 Mr. Stevenson, do you</p> <p>7 recognize Exhibit Number 4?</p> <p>8 A. Well, it's my 2006</p> <p>9 performance appraisal.</p> <p>10 Q. Right. And it's -- this is</p> <p>11 an e-mail from you to David Kerr</p> <p>12 attaching your 2006 performance</p> <p>13 appraisal, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And who was Mr. Kerr</p> <p>16 when you sent this e-mail, what was his</p> <p>17 position?</p> <p>18 A. He was the vice president of</p> <p>19 business operations I believe.</p> <p>20 Q. He was your boss</p> <p>21 effectively?</p> <p>22 A. Yes, he was my boss.</p> <p>23 Q. And let's turn to the actual</p> <p>24 performance appraisal itself, which</p>	<p>1 And looking in the left-hand column,</p> <p>2 lists a number of objectives for the</p> <p>3 year. And let's go down to the third</p> <p>4 row. Do you see it says successfully</p> <p>5 launched products?</p> <p>6 A. Yes.</p> <p>7 Q. And it identifies this as a</p> <p>8 corporate objective. And the corporate</p> <p>9 objective there was "achieve</p> <p>10 \$17.5 million in Opana and Opana ER net</p> <p>11 factory sales in 2006," correct?</p> <p>12 A. Correct.</p> <p>13 Q. All right. And then you've</p> <p>14 indicated on the right-hand side that</p> <p>15 that was achieved. And, in fact, it was</p> <p>16 about, approximately \$18.8 million in net</p> <p>17 factory sales, correct?</p> <p>18 A. Yes. What's -- that's</p> <p>19 what's there, that's correct.</p> <p>20 Q. Okay. And then the next row</p> <p>21 down, successfully launched products,</p> <p>22 Corporate Objective 1.</p> <p>23 Now here it says, "Manage</p> <p>24 Project Pizza to achieve documented</p>
Page 83	Page 85
<p>1 begins in the attachment at 860304. I</p> <p>2 just want to page back through this. If</p> <p>3 you turn back through the document. If</p> <p>4 you go to Page 6, in the lower right-hand</p> <p>5 corner?</p> <p>6 A. Page 6. Yes.</p> <p>7 Q. And before I ask you about</p> <p>8 the particulars on this page, am I</p> <p>9 correct in understanding, this is</p> <p>10 something you would have -- you would</p> <p>11 have filled out in terms of saying to</p> <p>12 Mr. Kerr, here was my objective and here</p> <p>13 is how I explain how I have or haven't</p> <p>14 achieved that particular objective this</p> <p>15 year; is that right?</p> <p>16 A. Yes, that's -- yeah. You</p> <p>17 know, for clarity normally the employee,</p> <p>18 at my level, would complete what I</p> <p>19 thought. And he would, you know, have a</p> <p>20 meeting and we would see if there was</p> <p>21 some agreement with what he thought with</p> <p>22 what I wrote, et cetera, and then it'd be</p> <p>23 finalized, yes.</p> <p>24 Q. Okay. So I'm on Page 6.</p>	<p>1 stocking of Opana and Opana ER in</p> <p>2 12,000" -- it looks like it's supposed to</p> <p>3 say pharmacies. Do you see that?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. And then on the</p> <p>6 right-hand -- oh sorry. Go over to the</p> <p>7 right on that same row, do you see in</p> <p>8 terms of describing fulfillment of the</p> <p>9 objective it says, "Managed Project Pizza</p> <p>10 team and documented Opana and Opana ER</p> <p>11 stocked in 12,100 pharmacies as of</p> <p>12 12/31/06."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall Project Pizza?</p> <p>16 A. Not really. I mean it</p> <p>17 was -- not really.</p> <p>18 Q. Okay. Do you recall though</p> <p>19 that there was a project that you oversaw</p> <p>20 to document stocking of Opana and Opana</p> <p>21 ER in about 12,000 pharmacies as of -- as</p> <p>22 of 2006?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: To be honest,</p>

22 (Pages 82 to 85)



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<p style="text-align: right;">Page 86</p> <p>1 I didn't. No, I saw some 2 documentation in the last day or 3 so. But I -- I really don't 4 recall any details about it, you 5 know. 6 BY MS. SCULLION: 7 Q. Fair enough. You have no 8 reason to doubt the accuracy of what you 9 wrote here in this performance appraisal, 10 correct? 11 A. No, I don't. There's no 12 reason to doubt it, no. 13 Q. And this description of an 14 effort to document stocking of Opana and 15 Opana ER in 12,000 pharmacies, that's 16 consistent with what you just explained 17 to me about one of the roles of -- that 18 you had at Endo, correct? 19 MS. VANNI: Object to form. 20 THE WITNESS: It was a role 21 I had in the last ten months or so 22 before I left, yes. It was 23 overseeing the stocking portion of 24 the brand business that the</p>	<p style="text-align: right;">Page 88</p> <p>1 A. It's an industry group for 2 the chains. And they have two meetings 3 per year, which suppliers, which -- you 4 know, whoever the pharmaceutical company 5 is, attends. And it can be both for the 6 pharmacy end and for the non-pharmacy 7 end. It's a pretty big -- they're pretty 8 big meetings every -- twice a year. 9 Once -- one in the spring, one is coming 10 up in April/May, and one in the summer. 11 Q. Got it. And that was listed 12 here, the "Actively participate in 13 NACDS," was listed as increasing Endo 14 penetration and entrenchment in key 15 strategic accounts. How would actively 16 participating in NACDS serve that goal? 17 A. By attending those meetings 18 and meeting with customers, and, you 19 know, showing the flag. We used to take 20 a booth and have a booth. And most 21 companies take a booth, and then the 22 customers come to your booth. And you 23 have a discussion. You show the flag. 24 You are actively participating.</p>
<p style="text-align: right;">Page 87</p> <p>1 national account executives were 2 responsible for. 3 BY MS. SCULLION: 4 Q. Okay. Now, let's just stay 5 in the document -- same document for a 6 moment. If you'll go up to Page 5. 7 Looking at the top of Page -- yeah, Page 8 5 -- excuse me -- the first row. 9 It says, "The objective is 10 increase Endo penetration and 11 entrenchment in key strategic accounts." 12 Do you see that? 13 A. Yes. 14 Q. And then under that it says, 15 "Actively participate in NACDS, HDMA and 16 GPhA in leadership position." 17 Did I read that correctly? 18 A. Yes. 19 Q. And then -- let's stick on 20 that for a minute. What is NACDS? 21 A. National Association of 22 chain drug stores. 23 Q. Okay. That was an industry 24 group for the trade?</p>	<p style="text-align: right;">Page 89</p> <p>1 It's expensive. There was 2 always somebody that would say, you know, 3 was it really worth it and that kind of 4 stuff. So when I -- you know, that was a 5 goal when we established objective that, 6 you know, my belief was, from a generic 7 perspective, if you're not there, if your 8 absence is missed, you'll be -- that will 9 be noticed. If everybody in the business 10 is there, and you're not there, that's a 11 problem. 12 So when I wrote this, you 13 know, to go back, generics in Endo 14 Pharmaceuticals was a very small portion 15 of their business compared to their brand 16 business. 17 So to go to have a booth at 18 NACDS, it's expensive. To have people to 19 go to NACDS is expensive. There's always 20 someone questioning, you know, since 21 generics was a small part of the 22 business, was it worth it. 23 So when I wrote the 24 objective, it was designed to say, if you</p>

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<p style="text-align: right;">Page 90</p> <p>1 want to be -- have a player in generics  2 and entrench yourself as a generic  3 player, then you have to participate in  4 these groups.  5 Q. So for someone who's not as  6 familiar with the generic industry as  7 obviously you are, why would being at a  8 meeting like NACDS be important to the  9 generic business as opposed to simply  10 competing based on price? Why would that  11 be important?  12 A. Well, first of all, you  13 don't just compete based on price.  14 That's not what you want. When you  15 compete, you know, you compete based on  16 how well you supply the product, how  17 responsible your customer service is.  18 These big accounts are busy.  19 You know, they don't sit around all day  20 saying, gee whiz, it's 9:30 and Endo  21 hasn't called me yet. That's not what  22 happens. They're extremely busy.  23 Supply is a big issue for  24 them, especially on big products,</p>	<p style="text-align: right;">Page 92</p> <p>1 marketing in generics, the overall, you  2 know, your image, the overall ability to  3 service the account. That's more of the  4 marketing approach.  5 So by going to an NACDS, if  6 you're not there, you're going to be  7 missed, because they're going to know you  8 are not there. Just you notice who's not  9 there. If somebody is not there, you  10 will notice it if you're in the business.  11 So it was important to go to  12 NACDS. It was important to go to HDMA.  13 And it was obviously important to go to  14 GPhA.  15 Q. Okay. And we'll come to  16 those --  17 A. Yeah, I understand.  18 Q. -- organizations in a -- in  19 a minute. But so if I understand you  20 correctly, in terms of not just competing  21 on price, but competing, you said, based  22 on your ability to service the accounts?  23 A. Multiple factors.  24 Q. Okay. And so would speed of</p>
<p style="text-align: right;">Page 91</p> <p>1 whatever the product might be, opiate or  2 non-opiate, doesn't make any difference.  3 If they have a fast-moving product or a  4 big product and someone can't supply it,  5 it's a very big problem.  6 I use the example in  7 Seymour, Indiana, was where -- when I was  8 at KU, where our manufacturing  9 headquarters was located.  10 Q. Sorry, and KU is Kremers  11 Urban?  12 A. Kremers Urban.  13 Q. Thank you.  14 A. A town of 50,000. On one  15 corner is a CVS, and right across is a  16 Walgreens. So there's a lot of  17 competition. And if you can't supply,  18 that's going to get -- you're going to  19 get noticed. So we don't just compete on  20 price. You don't want to just compete on  21 price. You want to compete on other  22 things.  23 And that's part of, you  24 know, what -- if you want to call it</p>	<p style="text-align: right;">Page 93</p> <p>1 customer service of processing orders be  2 an important factor?  3 A. Yes.  4 Q. And an ability to just be  5 responsive to orders as they come in,  6 that would be an important factor?  7 A. Yes. Yes.  8 Q. Okay.  9 A. That's -- yeah.  10 Q. Fair to say customers really  11 don't want to hear that when they place  12 an order, there's a problem with you  13 processing their order, right?  14 MS. VANNI: Object to form.  15 THE WITNESS: Correct. Most  16 customers, I don't remember or  17 don't recall what it was at that  18 time. But today, it's a  19 requirement that you service  20 98 percent of their purchase  21 orders.  22 BY MS. SCULLION:  23 Q. I'm sorry. What does that  24 mean?</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 A. Number of lines in a PO, a 2 purchase order -- I'm sorry I used -- a 3 purchase order comes in with a number of 4 lines. So the definition of a backorder 5 percentage, 98 percent is based on number 6 of lines ordered based on number of lines 7 filled. 8 Q. And if you don't meet that 9 98 percent, what happens? 10 A. They'll send you a bill. 11 You have to pay the difference. Today -- 12 again, I don't remember what it is back 13 in that time. But some accounts, I 14 think, had already started -- it was a 15 big issue, supply. It was one thing to 16 differentiate. 17 But to finish my sentence, 18 if you don't supply, then they will send 19 you a bill for your price versus the next 20 lowest price generic. That's usually 21 what happens. 22 And it's an order for you to 23 be open and honest about how soon you can 24 supply, because if you want to pay them,</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Okay. And I think you said, 2 do you recall whether the 95 percent 3 level was in place when you were at Endo? 4 A. I don't recall. 5 Q. Okay. 6 A. But it's possible. 7 Q. Okay. But putting aside the 8 95, 98 percent, do you recall though when 9 you were at Endo and in part working with 10 the trade accounts, that there still was 11 a focus in the trade accounts on the 12 level of customer service that was being 13 provided? 14 A. Yes. 15 Q. Okay. That was -- and 16 again, regardless of whether there's a 17 95 percent threshold or not, still at 18 that time when you were with Endo, the 19 trade accounts didn't want to have 20 hassles, for lack of a better word, with 21 their orders, right? 22 A. Correct. 23 Q. They wanted their orders to 24 be taken and processed, right?</p>
<p style="text-align: right;">Page 95</p> <p>1 great. They'll keep the spot for you 2 open until you can supply again. 3 But it's designed to be 4 financially painful so that if you can't 5 supply, that you'll say I can't supply 6 and give up the business. And then once 7 you give it up, you won't get it back. 8 So it's designed that 9 they're not out of product, because they 10 have a lot of pharmacies, a lot of 11 stocking, a lot of issues and they don't 12 want to have an issue with being out of 13 stock. Being out of stock is the worst 14 thing you can do. 15 So part of how we 16 differentiate ourselves wherever I have 17 worked is we've been able to supply 95, 18 98 percent. Okay. 19 Now, over time, it used to 20 be 95, if I recall correctly, and, you 21 know, they have become more aggressive 22 now, and it moved more to 98 percent. So 23 they give you very little leeway for 24 error.</p>	<p style="text-align: right;">Page 97</p> <p>1 A. Correct. 2 Q. No questions asked? 3 MS. VANNI: Object to form. 4 THE WITNESS: Well, that's 5 what their expectation was. 6 BY MS. SCULLION: 7 Q. Right. 8 A. Endo, as most companies do, 9 we had it at Kremers Urban even though we 10 were not involved in C-IIs, we monitored 11 their orders. At Kremers, we monitored 12 orders to make sure they were in line 13 with what historical demand has been. 14 And that's pretty common in 15 companies to do that. It has nothing to 16 do with opioids necessarily. Opioids is 17 more important because of the nature of 18 opioid products. But even if it's not an 19 opioid, it's going to be monitored. So 20 that somebody doesn't buy more product 21 than -- than the historical demand. It 22 will raise a flag so you can go back and 23 inquire what happened. 24 Q. Now --</p>

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<p style="text-align: right;">Page 98</p> <p>1 A. And opioids, it's even more 2 important. So Endo had what the accounts 3 expected was no hassles. But if Endo had 4 order monitoring, suspicious order 5 monitoring, just the nature of the beast 6 of opioids, they had that -- they had 7 that process in place, as companies do, 8 for all -- for products. 9 Q. Are you aware if Endo, in 10 the time that you were there, ever 11 turning -- turning back any orders from 12 the trade on any of its opioid 13 accounts -- 14 A. I -- 15 Q. Sorry. 16 -- for suspicious orders? 17 MS. VANNI: Object to form. 18 THE WITNESS: I don't recall 19 any of that. You know, I don't 20 recall that happening. 21 BY MS. SCULLION: 22 Q. Okay. 23 A. If that had happened, I 24 wouldn't have objected to it.</p>	<p style="text-align: right;">Page 100</p> <p>1 So rather than having two 2 people doing the same thing only 3 one for brand and one for 4 generics, it was all put into one 5 department. And they did both 6 brand and generics. 7 So it could have happened, 8 and I wouldn't have necessarily 9 heard about it. 10 BY MS. SCULLION: 11 Q. Okay. To the best of your 12 understanding, though, who was handling 13 any suspicious order monitoring for 14 opioids when you were at Endo, which 15 department? 16 A. I don't remember the exact 17 department. It was probably, I'm going 18 to say, supply chain. But I don't 19 remember exactly. 20 Q. Okay. Do you remember a 21 woman named Lisa Walker? 22 A. Yes. 23 Q. Was Lisa Walker handling 24 suspicious order monitoring?</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. But you don't recall it ever 2 happening? 3 A. No. 4 MS. VANNI: Object to form. 5 THE WITNESS: Could have 6 happened. They had -- that was a 7 separate branch. The way Endo was 8 set up was they were segregated. 9 So the people in customer service 10 serviced the brand and generics. 11 The people in supply chain handled 12 generic -- brand and generics. 13 People in manufacturing and 14 operations handled brands and 15 generics. 16 It was segregated into 17 levels of expertise. 18 And so, just like we talked 19 about earlier on scientific people 20 looking at promotional material, 21 it was very segregated as to what 22 people's experience and the way it 23 was set up at Endo was that -- to 24 avoid duplication of efforts.</p>	<p style="text-align: right;">Page 101</p> <p>1 A. I don't know what she was 2 handling specifically. But it wouldn't 3 surprise me that she was involved in 4 that. I don't know if she was the 5 person. She had a department. So it was 6 more than just Lisa Walker in her 7 department. 8 Q. But fair to say, the 9 suspicious order monitoring, whatever it 10 was, and whoever was doing it, was not 11 your area of expertise, correct? 12 A. I wasn't involved in 13 suspicious order monitoring. 14 Q. Okay. All right. Going 15 back to Exhibit 4, same page. We were 16 just talking about the NACDS and some 17 aspects of that. It also mentions in 18 this first row, "Actively participate in 19 HDMA." 20 What was HDMA? 21 A. HDMA was -- I forget what 22 the H stands for, but distributors. It 23 was basically the trade association for 24 the wholesalers.</p>

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<p style="text-align: right;">Page 102</p> <p>1 Q. Okay. So NACDS was for the</p> <p>2 retail chains, and HDMA was for the</p> <p>3 wholesalers?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And was the</p> <p>6 importance of having active participation</p> <p>7 at HDMA similar to what you described for</p> <p>8 NACDS?</p> <p>9 A. Yes, it -- it declined over</p> <p>10 time because everybody went to the NACDS</p> <p>11 meeting. So the HDMA meeting was nice to</p> <p>12 go there, but it wasn't as crucial. It</p> <p>13 was -- we had to go to support the</p> <p>14 whole -- our wholesale customers. It was</p> <p>15 a different type of meeting than NACDS.</p> <p>16 So we did meet with the wholesalers while</p> <p>17 we were there. And obviously -- but it</p> <p>18 wasn't as big or large as NACDS.</p> <p>19 Q. Okay. And similar to what</p> <p>20 you described in terms of the</p> <p>21 relationship with the retail chains, was</p> <p>22 it also important to have that good</p> <p>23 customer service relationship with the</p> <p>24 wholesalers?</p>	<p style="text-align: right;">Page 104</p> <p>1 talking about how Wall Street perceives</p> <p>2 the generic business.</p> <p>3 They had people from IMS</p> <p>4 that would go through IMS data of -- you</p> <p>5 know, talking about the industry from an</p> <p>6 IMS standpoint. IMS is -- you know, they</p> <p>7 have all the data for sales and revenue</p> <p>8 and stuff like that. And, you know, it</p> <p>9 was an informational meeting. And the</p> <p>10 organization itself represented the</p> <p>11 generic industry in -- to the outside</p> <p>12 world, you know.</p> <p>13 Q. Okay. And just, if we</p> <p>14 could, it says here that "the goal was</p> <p>15 actively participate in these three</p> <p>16 organizations."</p> <p>17 It says, "In leadership</p> <p>18 position." Do you see that?</p> <p>19 A. Yep.</p> <p>20 Q. Did Endo, while you were</p> <p>21 there, take any leadership positions in</p> <p>22 any of those organizations?</p> <p>23 A. In NACDS, in -- you have --</p> <p>24 to take a leadership position, you have</p>
<p style="text-align: right;">Page 103</p> <p>1 A. Yes.</p> <p>2 Q. And then the same row in</p> <p>3 Exhibit 4 then refers to the GPhA. Is</p> <p>4 that the Generic Pharmaceutical</p> <p>5 Association?</p> <p>6 A. Yes. Now they are known as</p> <p>7 Association For Accessible Medicines,</p> <p>8 AAM, or AM.</p> <p>9 Q. Okay. And why did you --</p> <p>10 why was it important that Endo actively</p> <p>11 participate in that association?</p> <p>12 A. Well, that association was</p> <p>13 on the cutting edge of -- of representing</p> <p>14 the generic industry in various meetings.</p> <p>15 And, you know -- but if for -- they had a</p> <p>16 meeting, two meetings a year, they would</p> <p>17 have different speakers come in. One</p> <p>18 year they had the secretary of the -- the</p> <p>19 health and human service secretary come.</p> <p>20 They've had people from -- normally they</p> <p>21 have the FDA commissioner would come. So</p> <p>22 it was -- it was an informative meeting.</p> <p>23 They had people there from</p> <p>24 Wall Street talking about, you know,</p>	<p style="text-align: right;">Page 105</p> <p>1 to be a chain, so we weren't a chain.</p> <p>2 Q. Okay.</p> <p>3 A. In HDMA you have to be a</p> <p>4 wholesaler distributor, and we weren't a</p> <p>5 wholesaler distributor.</p> <p>6 In GPhA, I don't -- I didn't</p> <p>7 take a leadership position. That was the</p> <p>8 goal, but if I had a chance -- I did join</p> <p>9 the board of directors later on after I</p> <p>10 left Endo, but not when I was at Endo.</p> <p>11 Q. Okay. And then if we can go</p> <p>12 over to the right-hand side of that same</p> <p>13 row where you then describe the extent to</p> <p>14 which you've met this goal. It says, you</p> <p>15 wrote, "Endo firmly entrenched as</p> <p>16 important niche generic specialty Pharma</p> <p>17 company that brings value to customer</p> <p>18 through competitive offers, 100 percent</p> <p>19 supply, and industry knowledge."</p> <p>20 Do you see that?</p> <p>21 A. Yeah.</p> <p>22 Q. And that was an accurate</p> <p>23 description of what Endo had achieved as</p> <p>24 of the date of this document, correct?</p>

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<p style="text-align: right;">Page 106</p> <p>1 A. We -- we supplied 2 100 percent of all legitimate orders, 3 yeah. 4 Q. Okay. And -- and it says 5 that you have, at this point, actively 6 participated in NACDS, HDMA, and GPhA? 7 A. Yeah, we did actively 8 participate. 9 Q. Okay. Great. 10 MS. SCULLION: Oh, actually, 11 you know, right now is actually we 12 can take a quick break. I mean 13 it's probably almost an hour, 14 right? Yeah, let's take a quick 15 break. 16 THE VIDEOGRAPHER: Off the 17 record, 10:19. 18 (Short break.) 19 THE VIDEOGRAPHER: We are 20 back on the record at 10:32. 21 MS. SCULLION: Can I have 22 Tab 29. 23 (Document marked for 24 identification as Exhibit</p>	<p style="text-align: right;">Page 108</p> <p>1 handle customer service? 2 A. Yes, she was involved -- 3 yeah. Yes, all that. Yes. 4 Q. Okay. Do you recall who 5 Ms. Kelnhofer was? 6 A. Yes. She was the national 7 account executive that handled McKesson. 8 Q. Okay. And the subject of 9 the e-mail from Ms. Walker is "Opana 10 on-hand quantities at McKesson." It says 11 "(QVL)." Do you have an understanding of 12 what that refers to? 13 A. I don't -- I don't know what 14 QVL means. 15 Q. How about Opana on-hand 16 quantities? 17 A. Opana on-hand quantities 18 would be the amount of Opana on hand at 19 McKesson DCs. 20 Q. Okay. And then let's look 21 at Ms. Walker's e-mail. She's responding 22 to a chain. She says, "Thanks, Kayla. I 23 will run the Opana information for 24 McKesson tomorrow so we have it at HDMA."</p>
<p style="text-align: right;">Page 107</p> <p>1 Endo-Stevenson-5.) 2 BY MS. SCULLION: 3 Q. I'm going to hand you what's 4 been marked as Exhibit Number 5. 5 Exhibit 5 for the record is Bates-stamped 6 ENDO-OPIOID_MDL-05554625. 7 Mr. Stevenson, do you see 8 Exhibit Number 5 is a series of e-mails 9 from March 2007, the last few of which 10 you are on the chain? 11 Do you see that? 12 A. Yes. 13 Q. Okay. I'd like to draw your 14 attention on the very first page of 15 Exhibit 5 to the middle of the page. Do 16 you see an e-mail from Lisa Walker to 17 Kayla Kelnhofer and yourself? 18 A. Yes. 19 Q. All right. And I think you 20 identified Ms. Walker as someone you 21 recall being, I think, part of the supply 22 chain group; is that right? 23 A. Yes. 24 Q. All right. Does she also</p>	<p style="text-align: right;">Page 109</p> <p>1 Do you see that? 2 A. Yes. 3 MS. SCULLION: Bless you. 4 BY MS. SCULLION: 5 Q. And is Ms. Walker talking 6 about getting information concerning 7 Opana ready for an HDMA meeting that was 8 to be attended? 9 MS. VANNI: Object to form. 10 THE WITNESS: Yes. It 11 appears that way, yes. 12 BY MS. SCULLION: 13 Q. Okay. Do you recall 14 Ms. Walker attending HDMA meetings? 15 A. I don't remember all the 16 people that attended. I don't remember 17 who attended. I think she attended, but 18 I don't really remember. 19 Q. Okay. How about 20 Ms. Kelnhofer? 21 A. Ms. Kelnhofer would have 22 attended. She reported to me. At that 23 time in '07, you know, I was in my final 24 five months with the company. But, yes,</p>

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<p>1 at that time she reported to me. She was</p> <p>2 one of the national account executives,</p> <p>3 who I testified earlier to was</p> <p>4 responsible for stocking.</p> <p>5 Q. Okay. And let's go then up</p> <p>6 to the top of the first page, which is</p> <p>7 your response e-mail. You say -- this is</p> <p>8 to David Kerr, your boss, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you say to Mr. Kerr,</p> <p>11 "FYI, Kayla is keeping up the pressure to</p> <p>12 increase stocking at forward DCs."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And does that refer to</p> <p>16 increasing stocking of Opana at</p> <p>17 McKesson's distribution centers?</p> <p>18 A. Yes.</p> <p>19 MR. HYKAN: Object to form.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. And you then go on to say,</p> <p>22 "This will be a topic for her at next</p> <p>23 week's HDMA meeting."</p> <p>24 Do you see that?</p>	<p>1 a vault, we -- not every -- not</p> <p>2 every chain we sold to had a</p> <p>3 vault. Like, for example, CVS</p> <p>4 didn't have a vault. Rite Aid</p> <p>5 didn't have a vault. So they</p> <p>6 relied on the wholesaler.</p> <p>7 So in order to get the</p> <p>8 stocking adequate to meet demand,</p> <p>9 we had to make sure that it</p> <p>10 wasn't -- it wasn't just important</p> <p>11 to be in the case of McKesson, as</p> <p>12 an example, in their depot, it</p> <p>13 also had to be in their forward</p> <p>14 DCs across the country.</p> <p>15 So what this appears to</p> <p>16 be -- what this appears to be</p> <p>17 referring to is how do we ensure</p> <p>18 that the product is not only in</p> <p>19 the Depot, but also out in the --</p> <p>20 in the forward DCs in order to</p> <p>21 service the pharmacies that will</p> <p>22 be receiving prescriptions from a</p> <p>23 doctor for Opana.</p> <p>24 Again, national account</p>
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<p>1 A. Yes.</p> <p>2 Q. And by that, did you mean</p> <p>3 that this is an area she was going to be</p> <p>4 prepared to discuss with McKesson at the</p> <p>5 HDMA meeting?</p> <p>6 A. It appears that way, yes.</p> <p>7 Q. Okay. Do you have any</p> <p>8 understanding of why you were looking to</p> <p>9 keep up the pressure to increase stocking</p> <p>10 at McKesson's forward DCs as of</p> <p>11 March 2007, stocking of Opana?</p> <p>12 MS. VANNI: Object to form.</p> <p>13 THE WITNESS: I don't have</p> <p>14 any specific knowledge. McKesson</p> <p>15 had a -- what they call a depot in</p> <p>16 Memphis. And then from that depot</p> <p>17 they supplied all their forward</p> <p>18 DCs. And sometimes on a new</p> <p>19 product launch there could have</p> <p>20 been a delay -- whether there was</p> <p>21 a delay here, I don't know -- of</p> <p>22 getting the product out to the</p> <p>23 forward DCs.</p> <p>24 And because opioids require</p>	<p>1 executives are focused on</p> <p>2 stocking. So that's what this is</p> <p>3 referring to.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. And just to make sure I</p> <p>6 understand, forward DCs are distribution</p> <p>7 centers that are -- were McKesson had</p> <p>8 around the country that its hub sent</p> <p>9 materials out to, right?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Terrific. Okay. And</p> <p>12 then --</p> <p>13 MS. SCULLION: Can I have</p> <p>14 Tab 60, please.</p> <p>15 (Document marked for</p> <p>16 identification as Exhibit</p> <p>17 Endo-Stevenson-6.)</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Mr. Stevenson, I'm going to</p> <p>20 hand you what's been marked as Exhibit</p> <p>21 Number 6.</p> <p>22 A. Okay.</p> <p>23 Q. And Exhibit Number 6, let me</p> <p>24 just orient you to the document a little</p>



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<p style="text-align: right;">Page 114</p> <p>1 bit. On the first page of Exhibit 6</p> <p>2 is -- you see at the top it says document</p> <p>3 metadata. This is a document produced</p> <p>4 from the document system we used to store</p> <p>5 all the documents that Endo and other</p> <p>6 parties have produced to us in the</p> <p>7 litigation. And this is indicating the</p> <p>8 metadata, electronic metadata associated</p> <p>9 with the document.</p> <p>10 And from time to time today,</p> <p>11 I might be showing you these metadata</p> <p>12 pages to help you understand what the</p> <p>13 document is.</p> <p>14 If you look on this first</p> <p>15 page of Exhibit 6, under the first box,</p> <p>16 do you see document identification, that</p> <p>17 first box at the top?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And if you'll go down</p> <p>20 to the bottom of that box, you'll see a</p> <p>21 line that says custodian. Do you see</p> <p>22 that?</p> <p>23 A. Yes.</p> <p>24 Q. And it says your name there.</p>	<p style="text-align: right;">Page 116</p> <p>1 metadata that is provided in</p> <p>2 accordance with the ESI protocol.</p> <p>3 So the metadata itself is what was</p> <p>4 coming from Endo in the</p> <p>5 production.</p> <p>6 MS. VANNI: Okay.</p> <p>7 MS. SCULLION: Okay? Thank</p> <p>8 you.</p> <p>9 MS. VANNI: Thank you.</p> <p>10 MS. SCULLION: Sure.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. If we go then to the</p> <p>13 substance of the exhibit itself, you turn</p> <p>14 to the second page of Exhibit 6. And you</p> <p>15 see this is a PowerPoint entitled Trade</p> <p>16 Organization Memberships?</p> <p>17 A. Yes.</p> <p>18 Q. And it says at the bottom</p> <p>19 here, OpCom 4/28/04. Do you remember</p> <p>20 what OpCom was at Endo in April of 2004?</p> <p>21 A. It was the operations</p> <p>22 committee of the company. Some people</p> <p>23 would call it the executive committee.</p> <p>24 It was the operations committee of the</p>
<p style="text-align: right;">Page 115</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And just so you understand,</p> <p>4 that's an indication that, according to</p> <p>5 the metadata produced with the document</p> <p>6 in this litigation, the document came</p> <p>7 from your custodial file at -- at Endo.</p> <p>8 So I'm just pointing it out to you so you</p> <p>9 have some understanding.</p> <p>10 A. Okay. Thank you.</p> <p>11 Q. Okay? Great.</p> <p>12 MS. VANNI: So then to be</p> <p>13 clear, Counsel, can I ask a</p> <p>14 question?</p> <p>15 MS. SCULLION: Sure.</p> <p>16 MS. VANNI: This information</p> <p>17 on this first page, document</p> <p>18 metadata --</p> <p>19 MS. SCULLION: Yeah.</p> <p>20 MS. VANNI: -- this is</p> <p>21 information that's stored in your</p> <p>22 system though?</p> <p>23 MS. SCULLION: It is stored</p> <p>24 in our system. It is based on the</p>	<p style="text-align: right;">Page 117</p> <p>1 company.</p> <p>2 Q. Were you ever a member of</p> <p>3 the OpCom?</p> <p>4 A. No.</p> <p>5 Q. Okay. And let's turn</p> <p>6 through the exhibit. Next page. Page 2</p> <p>7 of the PowerPoint identifies two trade</p> <p>8 organizations. One is PhRMA. And the</p> <p>9 second is the Generic Pharmaceutical</p> <p>10 Association. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And the Generic</p> <p>13 Pharmaceutical Association, that's the</p> <p>14 one that we were just discussing a few</p> <p>15 minutes ago, correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. Apologies.</p> <p>18 Are you familiar with --</p> <p>19 with PhRMA as well as the Generic</p> <p>20 Pharmaceutical Association?</p> <p>21 A. How do you define familiar?</p> <p>22 Q. Have you been involved with</p> <p>23 PhRMA yourself?</p> <p>24 A. No.</p>

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<p style="text-align: right;">Page 118</p> <p>1 Q. Okay.</p> <p>2 A. It's a -- it's a brand.</p> <p>3 It's the brand -- trade association for</p> <p>4 the brand PhRMA industry.</p> <p>5 Q. Okay. Then do you recall</p> <p>6 any discussions at Endo about whether</p> <p>7 Endo should be a member of PhRMA when you</p> <p>8 were there?</p> <p>9 A. Yes, I do.</p> <p>10 Q. So let's look at that. If</p> <p>11 you'll turn to page 12 of --</p> <p>12 A. Can I just offer one</p> <p>13 additional comment?</p> <p>14 Q. Sure.</p> <p>15 A. I sat in meetings where</p> <p>16 PhRMA was discussed. I wasn't involved</p> <p>17 in the decision or any representation of</p> <p>18 whether Endo should join PhRMA or not. I</p> <p>19 just want to be clear about that.</p> <p>20 Q. You were in the meetings</p> <p>21 though, where it was discussed?</p> <p>22 A. Well, this meeting it was</p> <p>23 discussed. That's the point of this</p> <p>24 meeting obviously.</p>	<p style="text-align: right;">Page 120</p> <p>1 point here says, "Our industry is among</p> <p>2 the most heavily regulated in the U.S.,</p> <p>3 and what happens in Washington matters a</p> <p>4 lot."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And then the next bullet</p> <p>8 point under that says, "Having access to</p> <p>9 the knowledge and influence of PhRMA can</p> <p>10 support us to sustaining and growing the</p> <p>11 business."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. And was that, what's written</p> <p>15 there, was that generally a topic that</p> <p>16 was discussed at Endo when you were</p> <p>17 there?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: This PhRMA is</p> <p>20 the brand business.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. Right.</p> <p>23 A. Okay. So I'm not -- I</p> <p>24 wasn't involved with PhRMA. So you can</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. All right. And you think</p> <p>2 this was a meeting you would have</p> <p>3 attended?</p> <p>4 A. Well, it had GPhA, so I</p> <p>5 would have been there. If I remember</p> <p>6 this meeting correctly, it was discussing</p> <p>7 the -- the benefits belonging to a</p> <p>8 member. Endo had two businesses, the</p> <p>9 brand business, generics business. Do I</p> <p>10 belong -- should the brand business Endo</p> <p>11 belong to PhRMA to support its brand</p> <p>12 business, and should it belong to GPhA to</p> <p>13 support its generics business. So that's</p> <p>14 what this is about.</p> <p>15 Q. Okay. Fair enough. So</p> <p>16 let's go to page 12 of the PowerPoint.</p> <p>17 If you look in the lower right-hand</p> <p>18 corner you'll see the page numbers.</p> <p>19 A. Yep. Okay.</p> <p>20 Q. Make sure we are literally</p> <p>21 on the same page. The top of the page</p> <p>22 says critical issues, right?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And the bullet</p>	<p style="text-align: right;">Page 121</p> <p>1 ask me all the questions you want about</p> <p>2 PhRMA, but, you know, I -- this is not my</p> <p>3 area. This was directed from the brand</p> <p>4 people to the leadership of the company,</p> <p>5 whether Endo should belong to PhRMA.</p> <p>6 Q. Understood.</p> <p>7 A. Okay.</p> <p>8 Q. But just to -- just to make</p> <p>9 sure though, do you recall discussions</p> <p>10 about Endo being interested in</p> <p>11 potentially being a member of PhRMA,</p> <p>12 because having access to the knowledge</p> <p>13 and influence of PhRMA can support Endo</p> <p>14 in sustaining and growing the business?</p> <p>15 A. Well, I would have heard it</p> <p>16 at this meeting if it came up, yeah. So</p> <p>17 I mean it came up. PhRMA is -- is</p> <p>18 designed to support the brand PhRMA</p> <p>19 industry and their members in PhRMA.</p> <p>20 That's what they do.</p> <p>21 Q. And -- and it does that, as</p> <p>22 this document indicates, in part, by</p> <p>23 access to knowledge, correct?</p> <p>24 A. Yeah, I didn't write this.</p>

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<p style="text-align: right;">Page 122</p> <p>1 I assume that's right.</p> <p>2 Q. Okay.</p> <p>3 A. Again, I'm not focused on</p> <p>4 PhRMA. I don't know what they did or</p> <p>5 didn't do --</p> <p>6 Q. Sure.</p> <p>7 A. -- directly because I</p> <p>8 wouldn't have been involved in PhRMA.</p> <p>9 Q. And just to the extent that</p> <p>10 you do know, is it accurate that one of</p> <p>11 the things that would be -- that Endo is</p> <p>12 interested in was the influence of PhRMA</p> <p>13 supporting Endo in sustaining and growing</p> <p>14 its business?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: If they had</p> <p>17 joined, if they had joined, yes.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Okay. And then, on the --</p> <p>20 staying on the same page, next bullet</p> <p>21 point it says, "The industry is under</p> <p>22 fire by politicians and the press."</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 124</p> <p>1 They are involved in -- that's</p> <p>2 what their members want from them.</p> <p>3 They are the trade association for</p> <p>4 the PhRMA brand business.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Okay. And -- and so as you</p> <p>7 said, there could have been multiple</p> <p>8 reasons Endo was interested in</p> <p>9 potentially joining PhRMA, but one of</p> <p>10 those would have been PhRMA's work</p> <p>11 helping to turn around negative</p> <p>12 perceptions of the industry, right?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: To the extent</p> <p>15 they existed. I have no idea what</p> <p>16 existed at the time, so --</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. In terms of negative</p> <p>19 perceptions?</p> <p>20 A. Yes.</p> <p>21 Q. Thank you. Got it.</p> <p>22 If you look then to Page 14</p> <p>23 of the presentation. It's entitled at</p> <p>24 the top, What PhRMA Can Do For Endo.</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. And then it discusses in</p> <p>2 terms of PhRMA, "PhRMA is working on a</p> <p>3 series of initiatives to help turn around</p> <p>4 negative perceptions of the industry."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And -- and again,</p> <p>8 understanding that it wasn't your</p> <p>9 particular focus, but were you aware that</p> <p>10 Endo had an interest in potentially</p> <p>11 joining PhRMA because of PhRMA's</p> <p>12 initiatives to help turn around negative</p> <p>13 perceptions of the industry?</p> <p>14 MS. VANNI: Object to form.</p> <p>15 THE WITNESS: If Endo was</p> <p>16 going to join PhRMA, I don't think</p> <p>17 that was the sole reason. There</p> <p>18 would have been multiple reasons</p> <p>19 to have -- belong to PhRMA, as</p> <p>20 PhRMA is effectively the lobbying</p> <p>21 organization for the brand PhRMA</p> <p>22 industry. So any negative or</p> <p>23 positive perceptions, whatever</p> <p>24 exist, PhRMA would be involved.</p>	<p style="text-align: right;">Page 125</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. As you were just</p> <p>4 referencing, the very first bullet point</p> <p>5 here is, "Lobby important bills in</p> <p>6 Congress and state legislatures,"</p> <p>7 correct?</p> <p>8 A. Yes. That's what they do.</p> <p>9 Q. Okay. And then the next is,</p> <p>10 "Present industry view to FDA" -- that's</p> <p>11 the Food and Drug Administration,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. "NIH" -- National Institute</p> <p>15 of Health, correct?</p> <p>16 A. Correct.</p> <p>17 Q. CMS is?</p> <p>18 A. Center for Medicare, I think</p> <p>19 Services. I think it's Center For -- I</p> <p>20 get lost in the alphabet.</p> <p>21 Q. Okay.</p> <p>22 A. But I think that's what it</p> <p>23 is, Center For Medicare Services.</p> <p>24 Q. Okay. And that's another --</p>

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<p style="text-align: right;">Page 126</p> <p>1 again, to the extent of your</p> <p>2 understanding, that's another thing that</p> <p>3 PhRMA could do for a brand company like</p> <p>4 Endo, right?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: Well, it's not</p> <p>7 just for Endo. For any brand</p> <p>8 pharmaceutical company.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q. Who was a member?</p> <p>11 A. Who was a member.</p> <p>12 Q. Okay.</p> <p>13 A. Should they decide to join.</p> <p>14 Q. Understood.</p> <p>15 And the third bullet says,</p> <p>16 "Interact with professional associations</p> <p>17 on key issues."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. What are professional</p> <p>21 associations referred to here? What does</p> <p>22 that mean?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: I don't -- I</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. So again on Page 17, we're</p> <p>2 talking about the Generic Pharmaceutical</p> <p>3 Association. Do you see that?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. All right. And you said you</p> <p>6 are familiar with Generic Pharmaceutical</p> <p>7 Association, right?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And I apologize,</p> <p>10 we may have -- I might have asked this</p> <p>11 before, have you ever held any office,</p> <p>12 official position within G Pharma?</p> <p>13 A. Yes, but not while at Endo.</p> <p>14 Q. What position did you hold?</p> <p>15 A. I was on the board of</p> <p>16 directors.</p> <p>17 Q. And when was that? Is it --</p> <p>18 is it in your -- probably on your CV?</p> <p>19 A. No, it's not on -- not on</p> <p>20 there. I don't believe.</p> <p>21 Q. Okay.</p> <p>22 A. I -- I'm going to say 2010</p> <p>23 to 2012 or '13 -- some -- I don't know.</p> <p>24 It was two, two -- two, two-year terms if</p>
<p style="text-align: right;">Page 127</p> <p>1 don't know what all the</p> <p>2 professional associations would</p> <p>3 be. American Medical Association.</p> <p>4 People -- American whatever, okay.</p> <p>5 So that -- that's what a -- that's</p> <p>6 whatever professional association</p> <p>7 is, that is involved in the</p> <p>8 pharmaceutical healthcare</p> <p>9 business.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Did you -- medical</p> <p>12 associations?</p> <p>13 A. I have no idea. You know, I</p> <p>14 have no idea what it would have been.</p> <p>15 Q. Okay. Now, let's go to</p> <p>16 Page 17 of the presentation.</p> <p>17 A. Okay.</p> <p>18 Q. Now, this is -- begins part</p> <p>19 of the presentation that does concern</p> <p>20 Generic Pharmaceutical Association.</p> <p>21 Do you see that?</p> <p>22 A. Yes. But for the record,</p> <p>23 Endo, to my knowledge when I was there</p> <p>24 never joined PhRMA.</p>	<p style="text-align: right;">Page 129</p> <p>1 I remember right.</p> <p>2 Q. And that was while you were</p> <p>3 with -- with Kremers Urban?</p> <p>4 A. Correct.</p> <p>5 Q. So you are pretty familiar</p> <p>6 with -- with the organization?</p> <p>7 A. Yes.</p> <p>8 Q. All right. And so the first</p> <p>9 bullet point here, it -- the first bullet</p> <p>10 point here says, in terms of the mission</p> <p>11 of the Generic Pharmaceutical</p> <p>12 Association, "Promote the common</p> <p>13 interests of its members and the general</p> <p>14 welfare of the pharmaceutical industry."</p> <p>15 Is that an accurate</p> <p>16 statement of one part of the Generic</p> <p>17 Pharmaceutical Association's mission?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. And when it says common</p> <p>22 interests of its members, that refers to</p> <p>23 the common interests that the various</p> <p>24 generic pharmaceutical manufacturers</p>

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<p style="text-align: right;">Page 130</p> <p>1 would have?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: It refers to</p> <p>4 the common interests of making</p> <p>5 sure that the generic industry</p> <p>6 voice was heard. The PhRMA voice</p> <p>7 was much stronger because they had</p> <p>8 more money. Their lobbying</p> <p>9 efforts were much stronger. The</p> <p>10 brand PhRMA companies were trying</p> <p>11 to prevent brands from going</p> <p>12 generic.</p> <p>13 So they were -- there was a</p> <p>14 lot of lobbying with respect to</p> <p>15 that, how to find loopholes in</p> <p>16 Hatch-Waxman, which is the law</p> <p>17 that governs the generic</p> <p>18 pharmaceutical business in the</p> <p>19 United States.</p> <p>20 It had to do with FDA rules</p> <p>21 that were coming up to make sure</p> <p>22 they're -- you know, understand</p> <p>23 them. These were all common</p> <p>24 interests that were, you know,</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. You did join? Okay. Thank</p> <p>2 you.</p> <p>3 A. But not PhRMA, just for the</p> <p>4 record.</p> <p>5 Q. And then bulk supplier, that</p> <p>6 would be the suppliers of the API?</p> <p>7 A. That would be the supplier</p> <p>8 of -- the API suppliers, yes.</p> <p>9 Q. Okay. And then on the</p> <p>10 associates that we have generic</p> <p>11 distributor. Is a generic distributor</p> <p>12 just a distributor of generics?</p> <p>13 A. Yeah. That would be -- that</p> <p>14 would be like an ANDA, there's a company</p> <p>15 that all they do is distribute -- you</p> <p>16 know, they don't -- they're a generic</p> <p>17 distributor. There may be others. I</p> <p>18 don't know. I'm not familiar with all of</p> <p>19 them.</p> <p>20 Q. Is there a distinction</p> <p>21 between a generic distributor and -- and</p> <p>22 distributors in general. So for example,</p> <p>23 you mentioned ANDA. Is there a</p> <p>24 difference between ANDA and McKesson?</p>
<p style="text-align: right;">Page 131</p> <p>1 every company shared on a broad</p> <p>2 basis. So -- and how do we get</p> <p>3 our message out to the politicians</p> <p>4 who, you had a lot of -- a lot of</p> <p>5 money from lobbying by PhRMA. And</p> <p>6 because of their -- their size and</p> <p>7 their -- the money available</p> <p>8 compared to the generic business,</p> <p>9 which was much smaller, the</p> <p>10 generic association was much</p> <p>11 smaller, you know, what is the</p> <p>12 common interest of how we</p> <p>13 communicate the benefits of</p> <p>14 generics to the public.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Got it. Let's go to the</p> <p>17 next page where it discusses the members.</p> <p>18 A. Yep.</p> <p>19 Q. And it says the three types</p> <p>20 of membership, the first being</p> <p>21 manufacturer. That would be a</p> <p>22 manufacturer like Endo if Endo had</p> <p>23 joined, right?</p> <p>24 A. We did join GPhA.</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Can you explain what</p> <p>3 that is?</p> <p>4 A. Well, the central difference</p> <p>5 is that a sole distributor cannot do</p> <p>6 chargebacks, and the wholesaler can. So</p> <p>7 that's the effect -- I mean, that's the</p> <p>8 way I describe it. So, you know, there</p> <p>9 could be other differences, but, you</p> <p>10 know, that's the way I think of it. I</p> <p>11 could be wrong, but that's the way I</p> <p>12 think of it.</p> <p>13 Q. And so if I understand</p> <p>14 correctly, when it says generic</p> <p>15 distributors, that refers to what you're</p> <p>16 calling a sole distributor?</p> <p>17 A. Correct.</p> <p>18 Q. And ANDA is one such example</p> <p>19 of a sole distributor?</p> <p>20 A. At the time, yes.</p> <p>21 Q. All right. You also</p> <p>22 mentioned chargebacks. You have some</p> <p>23 familiarity with chargebacks, correct?</p> <p>24 A. Yes.</p>

34 (Pages 130 to 133)



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<p style="text-align: right;">Page 134</p> <p>1 Q. All right. We'll talk about 2 that a little bit later. I just want to 3 make sure I understood that. 4 The next bullet point here 5 is CRO. What's a CRO? 6 A. Contract research 7 organization. 8 Q. And what is that? 9 A. Somebody that would do 10 pivotal -- pilot and pivotal biostudies. 11 You know, I don't know -- I don't 12 remember if they all exist anymore. But 13 if you want to do a pilot biostudy or 14 pivotal biostudy you have to go to 15 somebody who can do that work. And you 16 would -- you would they are called 17 contract research organizations. 18 Q. Okay. Consultants I think 19 is self-explanatory. Pharm brokers is 20 the last one. What is that? 21 A. Pharm broker would be 22 somebody that tries to put two companies 23 together that has a need for -- you know, 24 you have a product of -- in a particular</p>	<p style="text-align: right;">Page 136</p> <p>1 key industry committees? 2 A. No. 3 Q. And I think you explained 4 Endo did not become a member of the board 5 of GPhArma (sic) while you were there? 6 A. No. 7 Q. Okay. If you'll go to Page 8 21 of the presentation. And that's 9 entitled, "Why is membership in both 10 organizations important?" 11 Are we on the same page? 12 A. Yep. 13 Q. Terrific. And it says, 14 "Endo has both significant brand and 15 generic business." 16 And that was true, correct? 17 A. Yes. 18 Q. It says, "Strategic vision 19 is to expand both brands and generics," 20 correct? 21 A. Correct. 22 Q. And as of April of 2004 when 23 this presentation was put together, that 24 was true, correct?</p>
<p style="text-align: right;">Page 135</p> <p>1 therapeutic area, and I have a need for 2 that product. They hear. They try to 3 put us together. So these were associate 4 members that they allowed to participate. 5 Q. Okay. And then let's just 6 go to the next page, 19, which discusses 7 privileges of full membership. You said 8 Endo did become a member of GPhArma 9 (sic). Did it become a full member? 10 A. Yes. 11 Q. Okay. And so endo enjoyed 12 the privileges listed here? 13 MS. VANNI: Object to form. 14 THE WITNESS: Yes, if we 15 choose to take advantage. 16 Basically, my membership was going 17 to the meetings, period, at that 18 point in time. 19 BY MS. SCULLION: 20 Q. Okay. First bullet point 21 discusses participation in key industry 22 committees affecting areas such as 23 regulatory and logistics. 24 Did Endo participate in any</p>	<p style="text-align: right;">Page 137</p> <p>1 A. Yes. 2 Q. And why was membership in 3 GPhArma (sic), how did that many relate 4 to this strategic vision to expand -- 5 let's just take the generics business for 6 Endo? 7 A. Who is GPhArma (sic)? 8 Q. I'm sorry, Generic 9 Pharmaceutical Association? 10 A. Okay. I'm sorry. Can you 11 repeat the question? 12 Q. Why was membership in the 13 Generic Pharmaceutical Association 14 important, as it says here, to the 15 strategic vision to expand the generic 16 business for Endo? 17 A. In order to make sure that 18 we were aware of all the different 19 activities affecting the generic industry 20 as a whole. Not just in Endo, but, you 21 know, normally at a GPhA meeting, as I 22 said before, you had the FDA commissioner 23 come. You had the head of OGD, which is 24 the Office of Generic Drugs, come. You</p>

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<p style="text-align: right;">Page 138</p> <p>1 have had the secretary of HHS come. You</p> <p>2 know, you had a lot of people that came</p> <p>3 with information and made presentations.</p> <p>4 So it was an informational</p> <p>5 kind of meeting. And that information,</p> <p>6 it was important to hear that firsthand.</p> <p>7 And that's why -- you know, that's why it</p> <p>8 was important to belong.</p> <p>9 Q. Did those meetings also give</p> <p>10 members the opportunity to interact with</p> <p>11 some of the officials that you just</p> <p>12 described?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. To speak to them?</p> <p>16 A. Yeah. I mean, we could</p> <p>17 shake their hand and talk to them if we</p> <p>18 wanted to.</p> <p>19 Q. Okay. Was that important to</p> <p>20 helping Endo's strategic vision to expand</p> <p>21 the generic business?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 THE WITNESS: It was -- it</p> <p>24 wasn't that significant. You're</p>	<p style="text-align: right;">Page 140</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Got it. Now, but as an</p> <p>3 organization, the Generic Pharmaceutical</p> <p>4 Association, was it also the idea that</p> <p>5 the organization could effectively lobby</p> <p>6 the FDA and other government officials</p> <p>7 with respect to the interests of the</p> <p>8 generic industry, some of which you just</p> <p>9 described?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: I disagree --</p> <p>12 I disagree with the word</p> <p>13 "lobbying." You don't --</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. How would you describe --</p> <p>16 A. -- lobby the FDA.</p> <p>17 Q. Sure. How would you --</p> <p>18 A. You can --</p> <p>19 Q. -- describe it then?</p> <p>20 A. You can interact with the</p> <p>21 FDA and ask them -- give them your point</p> <p>22 of view. And they can either agree with</p> <p>23 your point of view or say I completely,</p> <p>24 totally disagree. And then they tell you</p>
<p style="text-align: right;">Page 139</p> <p>1 not going to talk to the FDA</p> <p>2 commissioner for very long other</p> <p>3 than, "Hi, how are you." So, no,</p> <p>4 that was -- it was more to hear</p> <p>5 what they had to say, what their</p> <p>6 vision was about where the FDA was</p> <p>7 going with respect to inspections</p> <p>8 and different things that they</p> <p>9 were involved in.</p> <p>10 The big issue was the length</p> <p>11 of time for approval, was a big</p> <p>12 issue. They would always address</p> <p>13 that. And there was a lot of</p> <p>14 people that would ask questions</p> <p>15 about when is the FDA going to</p> <p>16 speed up generic approval. So</p> <p>17 things like that.</p> <p>18 So it was more to hear what</p> <p>19 their position was. The audience</p> <p>20 members could ask questions, and</p> <p>21 that was -- if you call that</p> <p>22 interaction, you know, that's the</p> <p>23 only really interaction other than</p> <p>24 say, "Hi, how are you?"</p>	<p style="text-align: right;">Page 141</p> <p>1 what to do. And basically you either do</p> <p>2 it or you don't get your product</p> <p>3 approved.</p> <p>4 Q. Okay. I wasn't speaking of</p> <p>5 any particular product though. But was</p> <p>6 one of the roles of the Generic</p> <p>7 Pharmaceutical Association to interact</p> <p>8 with -- let's just start with the FDA, to</p> <p>9 try to advance the interests of the</p> <p>10 generic industry as a whole --</p> <p>11 MS. VANNI: Objection.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. -- not to any particular</p> <p>14 product?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: I don't agree</p> <p>17 with the word "advance." I don't</p> <p>18 know what's meant by the word</p> <p>19 "advance." The -- the purpose of</p> <p>20 the GPhA was to represent its</p> <p>21 interest to the members. A big</p> <p>22 issue was, and until recently when</p> <p>23 the user fee concept got up and</p> <p>24 running to a greater degree, there</p>



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<p>1 was a great deal of time required 2 to get a generic approved. 3 So you would spend a lot of 4 money on the science and then have 5 to wait for it to be filed at the 6 FDA. And it could take two or 7 three years before you would get 8 approval. The feeling was that 9 should be faster. So that was a 10 big issue. 11 BY MS. SCULLION: 12 Q. Okay. 13 A. So those kinds of things. 14 The common interests, the common 15 interests is product approvals with the 16 FDA and then interacting with the 17 government where possible to advance the 18 idea of generics, knowing we were much 19 financially outgunned by the pharma 20 industry. 21 Q. Understood. Let's go to the 22 next page, 22. This page is headed 23 "Value of Membership in PhRMA and GPhA." 24 Do you see that?</p>	<p>1 point, "Access of influential policy 2 makers and legislators." 3 Do you agree that was a 4 value of membership in the GPhA? 5 A. Yes. Hearing their 6 presentations, as I testified to, yes. 7 Q. Okay. The next bullet 8 point, "Ability to influence legislation 9 and rulemaking affecting Endo." 10 You agree that was a value 11 of membership in the GPhA? 12 A. It was, but I don't recall 13 we ever used that. 14 Q. Okay. And then the last 15 bullet point is, "Opportunity for 16 business." 17 Was that also a value of 18 membership in the GPhA? 19 A. It was a small benefit. 20 There might have been a business 21 development opportunity that you might 22 hear about by going. There might have 23 been, maybe you can meet with the CRO you 24 didn't know the capacity to do a</p>
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<p>1 A. Yes. 2 Q. Okay. And again, just 3 focusing on the right-hand column which 4 gives checkmarks for the various points 5 for GPhA. I just want to confirm that 6 you agree that as of April 2004, each of 7 these was a value of membership of the 8 GPhA. 9 The first is, "Advocacy of 10 strategic issues affecting Endo," 11 correct? 12 A. By the GPhA, yes. 13 Q. Okay. The next is, "CI 14 opportunities." Is that competitive 15 intelligence opportunities? 16 A. Yes. 17 Q. And you agree that was a 18 value of membership in GPhA? 19 A. Yeah. You could hear 20 things -- 21 Q. Right. 22 A. -- that was affecting the 23 business. 24 Q. Okay. And the next bullet</p>	<p>1 scientific study, things like that. 2 Q. Okay. You can put the 3 exhibit to the side for just a moment. 4 MS. SCULLION: Can I get Tab 5 19 and Tab 75. 6 BY MS. SCULLION: 7 Q. When you joined Endo in 8 2003, Endo was already selling certain 9 prescription opioids, correct? 10 A. Yes. 11 Q. And the principal one was -- 12 was Percocet, right? 13 MS. VANNI: Object to form. 14 THE WITNESS: It all depends 15 on how you define principal. It 16 would depend on the revenue. 17 Another big product at the time 18 that was increasing was Lidoderm. 19 BY MS. SCULLION: 20 Q. I just want to focus in on 21 the prescription opioids. Lidoderm was 22 not an opioid, correct? 23 A. Correct. 24 Q. All right. Percocet was an</p>

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<p>1 opioid, we said, right?</p> <p>2 A. It was a brand opioid, yes.</p> <p>3 Q. Right. And there was also</p> <p>4 Endocet, right?</p> <p>5 A. Yes.</p> <p>6 Q. Was Endo already selling</p> <p>7 Endocet when you joined?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And I just want to</p> <p>10 make sure I understand, Endocet was a</p> <p>11 generic equivalent to the branded product</p> <p>12 Percocet, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Were there other generic</p> <p>15 equivalents to Percocet on the market at</p> <p>16 the same time as Endocet, that were sold</p> <p>17 by other companies other than Endo?</p> <p>18 A. Yes.</p> <p>19 Q. Why did Endo have both</p> <p>20 Percocet and Endocet, why was it selling</p> <p>21 a generic version of its own product?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 THE WITNESS: Well, the</p> <p>24 reason is that there was a generic</p>	<p>1 They don't know if a generic</p> <p>2 exists or not. And they -- some</p> <p>3 patients say, hey, I don't want</p> <p>4 the generic. So they don't know</p> <p>5 if exists or not, they write</p> <p>6 "dispense as written," or "brand</p> <p>7 medically necessary." You go into</p> <p>8 the pharmacy, and if a generic's</p> <p>9 available, unless that's written</p> <p>10 at the bottom of the script by the</p> <p>11 physician, you will automatically</p> <p>12 get, by law, in 47, 48 states, I</p> <p>13 forget the exact number, you will</p> <p>14 get the generic.</p> <p>15 So the Percocet brand</p> <p>16 business was going to decline and</p> <p>17 it was going to be replaced, the</p> <p>18 volume of Percocet was going to</p> <p>19 convert, if you look at it as a</p> <p>20 flavor of a pie, the Percocet</p> <p>21 flavor was going to convert to the</p> <p>22 generic flavor. Okay. So the pie</p> <p>23 stays the same, but the flavor</p> <p>24 changes.</p>
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<p>1 competitor. And they had a</p> <p>2 generic business. So you can</p> <p>3 either let the money all go to</p> <p>4 your competitor and -- or you can</p> <p>5 participate in the generic market.</p> <p>6 The brand business, once it</p> <p>7 goes generic, is going to be</p> <p>8 converted. So the brand</p> <p>9 doesn't -- there's not two -- you</p> <p>10 know, I call it a pie. Okay. So</p> <p>11 once there's -- once there is a</p> <p>12 generic competitor to Percocet,</p> <p>13 Percocet sales are going to</p> <p>14 decline.</p> <p>15 And normally the erosion</p> <p>16 factor -- 47, 48 states have</p> <p>17 automatic generic substitutional</p> <p>18 rules. So when you walk into a</p> <p>19 pharmacy, unless the doctor writes</p> <p>20 "dispense as written" or "brand</p> <p>21 medically necessary," if the</p> <p>22 generic is available, you are</p> <p>23 going to get the generic. So they</p> <p>24 write the brand on the script.</p>	<p>1 So rather than see their</p> <p>2 brand business reduced and</p> <p>3 declined before my time, they --</p> <p>4 they launched the Endocet generic,</p> <p>5 which was the same as the brand</p> <p>6 Percocet by -- it was AB-rated.</p> <p>7 And as a result of that, they were</p> <p>8 able to participate in the generic</p> <p>9 market and minimize the financial</p> <p>10 impact of the loss of revenue for</p> <p>11 brand Percocet.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. Okay. And AB-rated, just to</p> <p>14 make it clear, means pharmaceutically</p> <p>15 equivalent batch?</p> <p>16 A. Yes. Bioequivalent.</p> <p>17 Q. Thank you.</p> <p>18 And so if I understand</p> <p>19 correctly, by having both Endocet and</p> <p>20 Percocet available, Endo was hedging</p> <p>21 against the decline in its branded</p> <p>22 Percocet share of the market and</p> <p>23 replacing at least some of that with</p> <p>24 Endocet?</p>

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<p style="text-align: right;">Page 150</p> <p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: I don't know</p> <p>3 if I would use the word hedging.</p> <p>4 It's -- it's participating, it's</p> <p>5 offsetting.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q. Fair enough. Okay. So it</p> <p>8 wouldn't -- it wouldn't have as much of a</p> <p>9 decline in its overall sales of an</p> <p>10 oxycodone APAP product, because some</p> <p>11 would now be Endocet instead of Percocet?</p> <p>12 A. Right.</p> <p>13 Q. Okay. And you explained</p> <p>14 that there were other generic versions of</p> <p>15 Percocet on the market at the same time</p> <p>16 as Endocet. Was there any advantage to</p> <p>17 Endo in having the trademarked name</p> <p>18 Endocet for its generic version?</p> <p>19 A. No, none at all. That was</p> <p>20 done before I got there.</p> <p>21 Q. Okay. And so in terms of</p> <p>22 competing with the other generic versions</p> <p>23 of Percocet that were on the market, how</p> <p>24 did Endo compete?</p>	<p style="text-align: right;">Page 152</p> <p>1 A. I think we're mixing the</p> <p>2 brand business and the generic business.</p> <p>3 The brand business focused on stocking.</p> <p>4 That's all they do.</p> <p>5 Q. Got it.</p> <p>6 A. They have nothing to do with</p> <p>7 price. They have nothing to do with</p> <p>8 anything but stocking, period. That's</p> <p>9 why 9 -- maybe that's 5, 8 percent of</p> <p>10 their time is involved with the brand on</p> <p>11 stocking.</p> <p>12 Once the brand is stocked,</p> <p>13 basically it's just maintenance. Okay.</p> <p>14 On the generic side it's more</p> <p>15 complicated. So I think to answer your</p> <p>16 question, how we competed was we had to</p> <p>17 have a competitive price. We had to</p> <p>18 supply, do all the -- you know, the -- do</p> <p>19 all the necessary customer service things</p> <p>20 from supply, interaction with the</p> <p>21 account. And that's what the national</p> <p>22 account executives would do.</p> <p>23 Normally in the big</p> <p>24 accounts, it also took -- I was involved</p>
<p style="text-align: right;">Page 151</p> <p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: How --</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. Sorry. How did Endocet --</p> <p>5 how did Endocet compete with the other</p> <p>6 generic versions on the market?</p> <p>7 MS. VANNI: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: What do you</p> <p>10 mean by how -- compete? How do</p> <p>11 you mean? I'm sorry, I don't</p> <p>12 understand.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. Sure. That's okay. I think</p> <p>15 you explained earlier that there -- the</p> <p>16 national account executives interacted</p> <p>17 with the wholesalers or the trade to get</p> <p>18 the product stocked. Did Endo -- did</p> <p>19 Endo's national account executives</p> <p>20 effectively compete with national account</p> <p>21 executives from other manufacturers to</p> <p>22 get Endocet stocked as the generic</p> <p>23 version of Percocet instead of one of the</p> <p>24 others?</p>	<p style="text-align: right;">Page 153</p> <p>1 more in the generic side because I had in</p> <p>2 many cases, if not all cases, a personal</p> <p>3 relationship with these folks going back</p> <p>4 from my, already by that time, many years</p> <p>5 of experience in the generic business.</p> <p>6 Now, most of them had -- hadn't changed.</p> <p>7 And so Endo was perceived when I got</p> <p>8 there as a smaller generic company,</p> <p>9 basically a little niche player focused</p> <p>10 in at that time in -- mostly in control</p> <p>11 drugs. Over time we tried to change that</p> <p>12 before I left where we tried to expand</p> <p>13 the vision for Endo and get involved in</p> <p>14 other non-opioid drugs. But at the time,</p> <p>15 that was how Endo was perceived, and we</p> <p>16 were able to compete because we supplied</p> <p>17 product. We had good customer service.</p> <p>18 We interacted well with -- with the</p> <p>19 customer. We were responsive. All those</p> <p>20 things that you need to do to get</p> <p>21 business in the generic market.</p> <p>22 Q. Okay.</p> <p>23 A. We were open and</p> <p>24 transparent. We didn't play games.</p>

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<p>1 These things may not sound important.</p> <p>2 But to a large account, they are very</p> <p>3 important.</p> <p>4 Q. And I'm trying to ask the</p> <p>5 question I was asking a little more</p> <p>6 clearly I hope.</p> <p>7 A wholesaler like McKesson,</p> <p>8 would it be distributing more than one</p> <p>9 generic version of Percocet or it would</p> <p>10 just choose one?</p> <p>11 A. Well, McKesson -- any</p> <p>12 wholesaler is going to carry multiple</p> <p>13 labels. What's in -- what they are</p> <p>14 carrying in -- in their DCs is normally</p> <p>15 in response to the contracts that are</p> <p>16 loaded for that product for a respective</p> <p>17 account.</p> <p>18 So there's -- you know,</p> <p>19 we -- on the opioid market, you had -- we</p> <p>20 had customers who we shipped to,</p> <p>21 DA-approved facilities --</p> <p>22 Q. DEA?</p> <p>23 A. Yeah, they're all -- you</p> <p>24 can't --</p>	<p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: It starts with</p> <p>3 the doctor. The doctor -- a</p> <p>4 DEA-licensed physician writes a</p> <p>5 prescription. The patient takes</p> <p>6 that to a pharmacy. CVS, Rite</p> <p>7 Aid, Walgreens, whoever, you know,</p> <p>8 wherever -- it could be an</p> <p>9 independent pharmacy.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Let's start with one of the</p> <p>12 chains.</p> <p>13 A. Okay. So --</p> <p>14 Q. CVS.</p> <p>15 A. CVS. Takes it to a CVS.</p> <p>16 CVS fills that product. Okay. They --</p> <p>17 normally in the pharmacies they have a</p> <p>18 safe or a secure drawer for controlled</p> <p>19 drugs, whether it's opioid -- if it's a</p> <p>20 C-II -- not all C-II are opioids. They</p> <p>21 have it in what's called a safe or a C-II</p> <p>22 drawer that's under lock and key.</p> <p>23 And if you ripple that</p> <p>24 effect, then because they don't have a</p>
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<p>1 Q. I just --</p> <p>2 A. I'm sorry, DEA-approved</p> <p>3 facilities, licensed facilities. And</p> <p>4 then we also went to the customer's</p> <p>5 customer, which were the chains and</p> <p>6 customers that did not have a vault.</p> <p>7 So in the case -- in the</p> <p>8 case of McKesson, they -- I have no idea</p> <p>9 how many labels they carried of the same</p> <p>10 product, but we were not the only label</p> <p>11 they carried in the warehouse. Might</p> <p>12 have been great if they had been, but</p> <p>13 that's not the way they work. Not -- or</p> <p>14 in fairness, for the record, neither does</p> <p>15 Cardinal or AmerisourceBergen.</p> <p>16 Q. Okay. What determined</p> <p>17 ultimately whether a prescription for</p> <p>18 oxycodone APAP got filled with -- if it</p> <p>19 got filled with a generic, whether it got</p> <p>20 filled with Endocet versus another</p> <p>21 generic version? That's what I'm trying</p> <p>22 to understand.</p> <p>23 How -- how is it determined</p> <p>24 what pill actually went to the patient?</p>	<p>1 vault, they then have a designated,</p> <p>2 what's called -- the official name is</p> <p>3 prime vendor or wholesaler that they have</p> <p>4 a contract loaded with to supply that</p> <p>5 particular pharmacy.</p> <p>6 So, then that wholesaler has</p> <p>7 those products in the DC, and they ship</p> <p>8 the product to the chain or to the</p> <p>9 pharmacy direct.</p> <p>10 Q. Can we -- let's -- let's</p> <p>11 stick with CVS, okay. So if CVS, if a</p> <p>12 CVS pharmacy was going to fill a</p> <p>13 prescription with a generic version of</p> <p>14 Percocet.</p> <p>15 A. Yes.</p> <p>16 Q. Would that -- would the CVS</p> <p>17 pharmacy have only one generic version of</p> <p>18 Percocet on hand to -- to fill that</p> <p>19 prescription?</p> <p>20 MS. VANNI: Object to form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Okay. How -- how was it</p> <p>24 determined which of the various generic</p>

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<p style="text-align: right;">Page 158</p> <p>1 versions CVS was using?</p> <p>2 Did Endo have a relationship</p> <p>3 with CVS that said you're going to use</p> <p>4 Endocet, for example?</p> <p>5 A. Well, we never say we're</p> <p>6 going to use it. We are honored to have</p> <p>7 their business if we were fortunate to</p> <p>8 get their business.</p> <p>9 Q. Understood. Okay. Fine.</p> <p>10 But would there be exclusive -- you'd be</p> <p>11 the exclusive supplier?</p> <p>12 A. At the time. Now they're --</p> <p>13 they don't do exclusive anymore, because</p> <p>14 they are so big. But at the time you</p> <p>15 were exclusive, yes.</p> <p>16 Q. Okay. And did Endo compete</p> <p>17 with other generic manufacturers of these</p> <p>18 oxycodone APAP drugs, compete to get the</p> <p>19 exclusives with different chains?</p> <p>20 MS. VANNI: Object to form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. How, and what was the</p> <p>24 competing based on for that contract?</p>	<p style="text-align: right;">Page 160</p> <p>1 at the time. Things like that. It</p> <p>2 wasn't just about price. You don't want</p> <p>3 to just compete on price.</p> <p>4 Q. Okay. Understood. Okay.</p> <p>5 MS. SCULLION: I apologize.</p> <p>6 Can I have Tab 49?</p> <p>7 BY MS. SCULLION:</p> <p>8 Q. So we were talking about</p> <p>9 the -- sorry about that -- the opioid</p> <p>10 products that Endo was selling when you</p> <p>11 joined. We talked about Percocet,</p> <p>12 Endocet --</p> <p>13 A. You know, what -- oh, in</p> <p>14 Endo as a whole or the generic division?</p> <p>15 Q. Endo as a whole. Endo as a</p> <p>16 whole. I mean, you were familiar with</p> <p>17 Endo was selling Percocet at the time</p> <p>18 that it was selling Endocet, right?</p> <p>19 A. Yes. I was familiar with</p> <p>20 it.</p> <p>21 (Document marked for</p> <p>22 identification as Exhibit</p> <p>23 Endo-Stevenson-7.)</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: right;">Page 159</p> <p>1 A. What I testified a moment</p> <p>2 ago, it was based on, you have to have a</p> <p>3 competitive price, how you did business,</p> <p>4 all the customer service, all that, okay.</p> <p>5 Q. Okay. And so the price that</p> <p>6 CVS was paying was determined based on</p> <p>7 the contract between Endo and CVS; is</p> <p>8 that right?</p> <p>9 A. Yeah, I don't know that I</p> <p>10 would call it a contract. But yes, it</p> <p>11 was -- it was an agreement on the price.</p> <p>12 Q. Okay. A price agreement.</p> <p>13 Fair enough?</p> <p>14 A. Yeah, among other things.</p> <p>15 There might have been also involved --</p> <p>16 well, in the case of opioids it wouldn't</p> <p>17 be effective because they didn't buy</p> <p>18 direct. But under a non-opioid, it would</p> <p>19 also involve cash terms or prompt payment</p> <p>20 terms and things like that. So there</p> <p>21 might have been other, you know, things</p> <p>22 like that that might have been involved.</p> <p>23 If there was a rebate</p> <p>24 associated with it, what was the rebate</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. Let me hand you what's been</p> <p>2 marked as Exhibit Number 7. And Exhibit</p> <p>3 Number 7 is a copy of Endo's Form 10-K</p> <p>4 for the fiscal year-ending December 31,</p> <p>5 2004.</p> <p>6 And Mr. Stevenson, if you</p> <p>7 can turn to the second page of the</p> <p>8 exhibit, you'll see the cover page that</p> <p>9 shows it's the 10-K.</p> <p>10 A. Yep.</p> <p>11 Q. Do you see that?</p> <p>12 A. I see it. Yes, I do.</p> <p>13 Q. I just want to use this. If</p> <p>14 we go back to page -- Page 10. It's a</p> <p>15 little hard to find it in the printout.</p> <p>16 If you look at page numbers at the bottom</p> <p>17 of the page, you'll see Page 9 on the</p> <p>18 left side.</p> <p>19 A. Yes.</p> <p>20 Q. The next page is Page 10.</p> <p>21 A. Yes.</p> <p>22 Q. And looking at the top of</p> <p>23 Page 10, looking at the chart that lists</p> <p>24 a number of products.</p>



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<p style="text-align: right;">Page 162</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And I thought this would be</p> <p>4 a useful place to remind us of what Endo</p> <p>5 was selling. Now, this is as of fiscal</p> <p>6 year 2004, granted. But we see second</p> <p>7 from the top, Percocet, right?</p> <p>8 A. Yes.</p> <p>9 Q. And again, that's -- it says</p> <p>10 oxycodone/acetaminophen, right?</p> <p>11 A. Yes.</p> <p>12 Q. Next one is Percodan, and</p> <p>13 that's oxycodone/aspirin, right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And going down four</p> <p>16 more, we see Endocet, and there we see</p> <p>17 oxycodone/acetaminophen again, right?</p> <p>18 A. Yes.</p> <p>19 Q. Next one is morphine sulfate</p> <p>20 ER?</p> <p>21 A. Yes.</p> <p>22 Q. You see that? And that's</p> <p>23 morphine sulfate, right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 164</p> <p>1 of the list, you see oxycodone ER and you</p> <p>2 see in terms of active ingredients there</p> <p>3 it lists oxycodone?</p> <p>4 A. Yes.</p> <p>5 Q. And again, at the time of</p> <p>6 this 10-K, it lists as being approved</p> <p>7 subject to ongoing litigation.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And that refers to Endo's,</p> <p>11 at this time, proposed -- sorry -- at</p> <p>12 this time approved but not yet launched</p> <p>13 generic version of OxyContin, right?</p> <p>14 A. Yes.</p> <p>15 Q. And I just want to draw your</p> <p>16 attention to the active ingredients for</p> <p>17 Percocet and for the oxycodone ER. They</p> <p>18 both contain oxycodone, correct?</p> <p>19 A. Yes.</p> <p>20 Q. But the oxycodone ER is pure</p> <p>21 oxycodone, not a mixture with</p> <p>22 acetaminophen or aspirin, right?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: It's not a</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. And that's an</p> <p>2 extended-release version?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall that's the</p> <p>5 generic equivalent to Purdue's MS Contin?</p> <p>6 A. Yes.</p> <p>7 Q. All right. Next is -- we</p> <p>8 see oxymorphone ER. Do you see -- and it</p> <p>9 says oxymorphone hydrochloride. Now, as</p> <p>10 of the date of this 10-K, it says it only</p> <p>11 had an approvable letter.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And the next one is</p> <p>15 oxymorphone IR. And again, only has an</p> <p>16 approvable letter at this time.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall those are the</p> <p>20 products that became Opana ER and Opana?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. Okay. Going down to the end</p>	<p style="text-align: right;">Page 165</p> <p>1 combination drug.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q. Okay. If you will go to the</p> <p>4 next page of Exhibit -- is it 7? Is that</p> <p>5 right? Sorry, I didn't write down</p> <p>6 numbers.</p> <p>7 If you go to the next page</p> <p>8 of Exhibit 7, you see at the top, a</p> <p>9 discussion of Percocet. And Endo states</p> <p>10 here, "We consider Percocet to be a gold</p> <p>11 standard of pain management."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And that was true, right?</p> <p>15 That was a true statement?</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: I can only</p> <p>18 testify to that Percocet was</p> <p>19 widely used, even by dentists. If</p> <p>20 you have a toothache and they give</p> <p>21 you a Percocet, it's probably</p> <p>22 5/325. So does that mean it's a</p> <p>23 gold standard? I don't know how</p> <p>24 they define gold standard.</p>

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<p style="text-align: right;">Page 166</p> <p>1 I wasn't there when they</p> <p>2 wrote this, or if I was, I wasn't</p> <p>3 involved in it.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. Okay. No dispute. That's</p> <p>6 how Endo described Percocet in its 10-K</p> <p>7 filed with the SEC?</p> <p>8 A. That's how Endo described</p> <p>9 it, yeah.</p> <p>10 Q. Right. And it goes on, just</p> <p>11 to remind ourselves of the history,</p> <p>12 explains that Endocet -- I'm sorry --</p> <p>13 Percocet was launched in 1976, correct?</p> <p>14 A. That's what it says.</p> <p>15 Q. And that was approved for</p> <p>16 the treatment of moderate to moderately</p> <p>17 severe pain, right?</p> <p>18 A. Yes.</p> <p>19 Q. And then it explains that</p> <p>20 Percocet has faced generic competition</p> <p>21 for nearly 20 years. Do you see -- and</p> <p>22 that was right? That was accurate,</p> <p>23 correct?</p> <p>24 MS. VANNI: Object to form.</p>	<p style="text-align: right;">Page 168</p> <p>1 may be substituted with a generic version</p> <p>2 at the pharmacy, right?</p> <p>3 A. By law, it has to be</p> <p>4 substituted.</p> <p>5 Q. In the states that you</p> <p>6 referred to?</p> <p>7 A. Well, 47 or 48 out of 50,</p> <p>8 unless the brand -- writes "brand</p> <p>9 medically necessary" or "dispense is</p> <p>10 written."</p> <p>11 Q. Okay. And the reference</p> <p>12 here to IMS national prescription audit,</p> <p>13 you also referred to IMS earlier today.</p> <p>14 Can you explain what IMS was?</p> <p>15 A. IMS was -- I don't know what</p> <p>16 the letters stand for anymore. But</p> <p>17 basically they were -- they gathered data</p> <p>18 from stores, prescription data, and --</p> <p>19 which was units, they could break it down</p> <p>20 into -- down to extended-release, or they</p> <p>21 could break it down into tablets and</p> <p>22 capsules, you know, if you have to.</p> <p>23 Q. I think you've lost your</p> <p>24 microphone. There you go.</p>
<p style="text-align: right;">Page 167</p> <p>1 THE WITNESS: I assume.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q. Okay. Then it says, "In</p> <p>4 2004, according to the IMS national</p> <p>5 prescription audit, approximately</p> <p>6 17.9 million new prescriptions for this</p> <p>7 combination of oxycodone HCl and</p> <p>8 acetaminophen were written for the brand</p> <p>9 name Percocet."</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So what Endo is</p> <p>13 saying is that nearly 20 years into</p> <p>14 generic competition, doctors are still</p> <p>15 writing it as Percocet brand name in</p> <p>16 large part, right?</p> <p>17 MS. VANNI: Object to form.</p> <p>18 THE WITNESS: Yes. But</p> <p>19 doctors, for the record, write the</p> <p>20 brand name on the script, even if</p> <p>21 the generic exists.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Right. And then through</p> <p>24 generic substitution rules or laws, it</p>	<p style="text-align: right;">Page 169</p> <p>1 A. They can break it down into</p> <p>2 tablets and capsules if they had to. And</p> <p>3 that data became, you know, widely used</p> <p>4 by both the brand and the pharmaceutical</p> <p>5 industry to understand how their product</p> <p>6 was doing with respect to sales and</p> <p>7 demand.</p> <p>8 Q. Did you use IMS data when</p> <p>9 you were with Endo?</p> <p>10 A. IMS (sic) contracted to buy</p> <p>11 IMS data. You buy -- the pharmaceutical</p> <p>12 companies buy the data.</p> <p>13 Q. I'm sorry. I think you said</p> <p>14 IMS. You meant to say Endo contracted to</p> <p>15 buy --</p> <p>16 A. Well, contracted is maybe</p> <p>17 not the right -- Endo purchased IMS data.</p> <p>18 Q. Okay. And did you use the</p> <p>19 IMS data that Endo purchased when you</p> <p>20 were with Endo?</p> <p>21 A. Endo had a -- yeah, Endo --</p> <p>22 the forecasting group used the IMS data.</p> <p>23 Q. Did you from time to time</p> <p>24 look at the IMS data as part of your</p>

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<p style="text-align: right;">Page 170</p> <p>1 responsibilities?</p> <p>2 A. Probably did.</p> <p>3 Q. Okay. And as you said, the</p> <p>4 IMS data would -- could be broken down</p> <p>5 into, as -- units as small as the actual</p> <p>6 tablets right?</p> <p>7 A. Tablets or capsules, yeah.</p> <p>8 Q. So you could purchase data</p> <p>9 that would tell you the number of tablets</p> <p>10 or capsules being sold in any given zip</p> <p>11 code for example, right?</p> <p>12 MS. VANNI: Object to form.</p> <p>13 THE WITNESS: I don't know</p> <p>14 about zip code. I never saw any</p> <p>15 data going to zip code.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. Okay. What's the geographic</p> <p>18 region -- smallest geographic region you</p> <p>19 recall that you looked at?</p> <p>20 A. United States of America.</p> <p>21 Q. You looked at the entire --</p> <p>22 A. Yeah.</p> <p>23 Q. Okay. That was for your</p> <p>24 generic business?</p>	<p style="text-align: right;">Page 172</p> <p>1 saw any zip code data.</p> <p>2 Q. But you don't know what the</p> <p>3 brand side saw?</p> <p>4 A. I don't know -- the brand</p> <p>5 side as far as I knew mostly focused --</p> <p>6 the brand companies that I'm familiar</p> <p>7 with focused on scripts. Okay. So --</p> <p>8 and every company that I worked in that</p> <p>9 had a brand, which were -- you know,</p> <p>10 whether it be BMS or Novartis or</p> <p>11 whomever, they focus on TRx's and new</p> <p>12 Rx's. That was the --</p> <p>13 Q. And that's prescription</p> <p>14 levels, right?</p> <p>15 A. That's prescription level.</p> <p>16 The generics focused on tablets and</p> <p>17 capsules.</p> <p>18 Q. Got it. Let's go to the</p> <p>19 next page of Exhibit 7. And going down</p> <p>20 to the last third of the page where it</p> <p>21 says "generic products."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Looking in the second</p>
<p style="text-align: right;">Page 171</p> <p>1 A. Generics don't care about</p> <p>2 states, to be honest. There's no</p> <p>3 reflection on the states.</p> <p>4 Q. Okay.</p> <p>5 A. It's -- remember, we sell to</p> <p>6 national accounts.</p> <p>7 Q. Got it?</p> <p>8 A. So they have their business</p> <p>9 nationally. CVS, AmerisourceBergen,</p> <p>10 McKesson, Cardinal, they sell nationally.</p> <p>11 They don't sell just to Pennsylvania and</p> <p>12 New Jersey. The brand business focuses</p> <p>13 on -- regions are divided that way. But</p> <p>14 generics is not -- is the United States,</p> <p>15 the whole United States.</p> <p>16 Q. Got it.</p> <p>17 A. I never saw data by zip</p> <p>18 code.</p> <p>19 Q. Okay.</p> <p>20 A. And I don't even know that</p> <p>21 Endo had it that small.</p> <p>22 Q. You just don't know one way</p> <p>23 or the other?</p> <p>24 A. I know on generics I never</p>	<p style="text-align: right;">Page 173</p> <p>1 paragraph, it says, "Our generic</p> <p>2 portfolio is currently comprised of</p> <p>3 products that cover a range of</p> <p>4 indications, most of which are focused in</p> <p>5 pain management."</p> <p>6 I think you described that</p> <p>7 earlier, that most of Endo's generics, at</p> <p>8 least as of 2004, were focused in pain</p> <p>9 management, correct?</p> <p>10 A. Yes.</p> <p>11 MS. VANNI: I'm sorry,</p> <p>12 Counsel. Where are you?</p> <p>13 MS. SCULLION: I'm sorry.</p> <p>14 So we're on page 11.</p> <p>15 MS. VANNI: Okay. Thank</p> <p>16 you.</p> <p>17 MS. SCULLION: The top says</p> <p>18 table of contents.</p> <p>19 MS. VANNI: Okay. Got it.</p> <p>20 MS. SCULLION: And then you</p> <p>21 see where it says "generic</p> <p>22 products"?</p> <p>23 MS. VANNI: Yeah.</p> <p>24 MS. SCULLION: That's where</p>

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<p style="text-align: right;">Page 174</p> <p>1 we are. Okay. So we're in the</p> <p>2 second paragraph.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. The next sentence goes on to</p> <p>5 say, "One of our generic products is</p> <p>6 morphine sulfate extended-release</p> <p>7 tablets, which accounted for 10 percent</p> <p>8 of our total net sales in 2004."</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. So that was a significant</p> <p>12 product, it was 10 percent of total net</p> <p>13 sales, right?</p> <p>14 MS. VANNI: Object to form.</p> <p>15 THE WITNESS: If they put it</p> <p>16 in the 10-K, again, I don't know</p> <p>17 if I was here at the time or not.</p> <p>18 I guess I was. It was 2004.</p> <p>19 Yeah, it was -- it was -- I</p> <p>20 guess you could call it</p> <p>21 significant.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Okay. And then it says, "In</p> <p>24 addition, we have a generic oxycodone</p>	<p style="text-align: right;">Page 176</p> <p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. Are we done with the 10-K?</p> <p>4 Q. For now, but do hold onto</p> <p>5 it, because I think we're going to come</p> <p>6 back to it for other questions later.</p> <p>7 (Document marked for</p> <p>8 identification as Exhibit</p> <p>9 Endo-Stevenson-8.)</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Okay. Mr. Stevenson, I'm</p> <p>12 going to hand you what's been marked as</p> <p>13 Exhibit Number 8.</p> <p>14 A. Okay.</p> <p>15 Q. And Exhibit Number 8, again</p> <p>16 is -- we have the metadata page as the</p> <p>17 first page. And again you can see in</p> <p>18 that top box under document</p> <p>19 identification, the last line custodian,</p> <p>20 that it says your name?</p> <p>21 A. Yeah, yes.</p> <p>22 Q. Just so I can orient you</p> <p>23 where this is coming from.</p> <p>24 The Bates number for the</p>
<p style="text-align: right;">Page 175</p> <p>1 hydrochloride and acetaminophen product,</p> <p>2 Endocet, which accounted for 19 percent</p> <p>3 of our total net sales in 2004."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And again, that would be a</p> <p>7 significant -- that was a significant</p> <p>8 product then, 19 percent of net sales,</p> <p>9 right?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: I guess I'm</p> <p>12 struggling with what "significant"</p> <p>13 means. It all depends on how you</p> <p>14 define "significant."</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Okay. Then we'll just stick</p> <p>17 with the numbers. It was almost --</p> <p>18 Endocet was almost 20 percent of total</p> <p>19 net sales for Endo in 2004, right?</p> <p>20 A. Yes.</p> <p>21 Q. All right. So combined,</p> <p>22 these two generic opioids were almost a</p> <p>23 third, it's 29 percent of net sales,</p> <p>24 right?</p>	<p style="text-align: right;">Page 177</p> <p>1 record is ENDO-OPIOID_MDL-04137944.</p> <p>2 If you go to the first page</p> <p>3 of -- of the PowerPoint. Do you see it's</p> <p>4 entitled Endo Pharmaceuticals Company</p> <p>5 Overview? And it's in April of 2004. Do</p> <p>6 you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Going to Page 2 of</p> <p>9 the PowerPoint, it lists management and</p> <p>10 senior staff.</p> <p>11 A. Yes.</p> <p>12 Q. And at the bottom under</p> <p>13 commercial senior management, you see</p> <p>14 yourself listed there, second from the</p> <p>15 bottom on the left?</p> <p>16 A. Yes.</p> <p>17 Q. All right. And let's go to</p> <p>18 Page 8 of the presentation.</p> <p>19 A. Okay.</p> <p>20 Q. And the presentation says,</p> <p>21 "Pain Market: A large and attractive</p> <p>22 opportunity."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 178</p> <p>1 Q. And -- and that was true as 2 of April 2004, correct, that the pain 3 market was a large and attractive 4 opportunity? 5 MS. VANNI: Object to form. 6 THE WITNESS: I don't know 7 how you define large. It was 8 obviously an attractive -- it was 9 an attractive opportunity because 10 not many people could make pain 11 medications. There were many 12 people in this country that take 13 pain medication. And, therefore, 14 it was attractive from that 15 standpoint. 16 BY MS. SCULLION: 17 Q. And it was also attractive 18 just from a revenue standpoint, right? I 19 mean, if you look on the left-hand side 20 you see U.S. prescription pain market, 21 \$16.5 billion, right? 22 MS. VANNI: Object to form. 23 THE WITNESS: Well, I see 24 that was the entire U.S. pain</p>	<p style="text-align: right;">Page 180</p> <p>1 saying there's a 13 percent 5-year CAGR, 2 right? 3 A. Yes. 4 Q. That's a pretty healthy 5 CAGR, right? 6 MS. VANNI: Form. 7 THE WITNESS: Yes. 8 BY MS. SCULLION: 9 Q. It's attractive in itself, 10 right? 11 MS. VANNI: Object to form. 12 THE WITNESS: I would say 13 so. 14 BY MS. SCULLION: 15 Q. And the opioid CAGR is 16 24 percent, so it's substantially even 17 greater than the general nonopioid 18 market, right? 19 A. Apparently it's based on the 20 data I see here, yes. 21 Q. Okay. So that makes an even 22 more attractive opportunity, correct? 23 MS. VANNI: Object to form. 24 THE WITNESS: I don't know</p>
<p style="text-align: right;">Page 179</p> <p>1 market. 2 BY MS. SCULLION: 3 Q. Right. 4 A. Yes. 5 Q. And do you see then, 6 under -- in the pie chart underneath, it 7 explains that of that, the opioid share 8 of that market was \$5.6 billion, right? 9 A. Yes. For the U.S. 10 Q. Right. So that was -- that 11 was also an attractive -- that made an 12 attractive opportunity, correct? 13 MS. VANNI: Object to form. 14 THE WITNESS: Yeah. It 15 could be, yeah. 16 BY MS. SCULLION: 17 Q. Yeah. And it says right 18 above the pie chart, do you see 19 five-year -- the five-year CAGR? 20 A. Yes. 21 Q. And that's compounded annual 22 growth rate, CAGR, right? 23 A. Yes. 24 Q. And the non-opioid market is</p>	<p style="text-align: right;">Page 181</p> <p>1 how you define attractive. You 2 know, I -- there's many things 3 that go into being attractive or 4 not attractive, so... 5 BY MS. SCULLION: 6 Q. Well, in this -- but in this 7 presentation from Endo in April 2004, 8 what is identified on this page as large 9 and attractive opportunity is this 10 \$16.5 billion U.S. pain -- prescription 11 pain market, right? 12 A. Well, this talks about 13 revenue. It doesn't talk about 14 profitability, so... 15 Q. Fair enough. 16 A. The way I think of 17 attractiveness is profitability, not -- 18 not what the overall size of the market 19 is. 20 Q. Okay. So -- but Endo 21 identified the overall size of the market 22 as one aspect of what made the pain 23 market a large and attractive 24 opportunity, right?</p>



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<p style="text-align: right;">Page 182</p> <p>1 A. According to what I see 2 here -- 3 Q. Yeah. 4 A. -- Endo took data that was 5 published at the time in 11/03 at the 6 bottom of the slide, it says, "Data is 7 through MAT 11/03," and the source is 8 IMS. But IM -- this is IMS data that 9 they showed. It doesn't talk about 10 profitability. 11 Q. Right. So regardless of 12 profitability, what's identified here on 13 the page entitled a large and attractive 14 opportunity, is just the overall revenue 15 and the CAGRs, right? 16 A. I think it's a large 17 potential opportunity, but I don't know 18 if it's attractive or not. It would 19 depend on the profitability of the 20 product. 21 Q. Okay. Let's go to Page 18. 22 The same exhibit. And you see it's 23 discussing the Percocet franchise? 24 A. Yep.</p>	<p style="text-align: right;">Page 184</p> <p>1 sitting in meetings. It had nothing to 2 do with the generic business. 3 Q. Okay. But you were -- but 4 you were familiar with the lifecycle 5 management strategy from meetings, right? 6 A. Yes. 7 Q. Okay. And can you just 8 explain just generally what a lifecycle 9 management strategy means? 10 A. In general terms it's how -- 11 it has nothing to do with opioids or 12 non-opioids. It has to do with extending 13 the life of the brand. 14 Q. And with respect to 15 Percocet, on Page 19, let's go to 16 Page 19. Just on the left-hand side, it 17 starts off with the column for fourth 18 quarter 1999, showing -- I'm not sure if 19 they are TRx's -- well, the -- the column 20 refers to Percocet 5-milligram, correct? 21 In the -- do you see the key at the 22 bottom of the chart? 23 A. Yes. The dark blue is 24 Percocet 5-milligram, right.</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. Okay. And again it reviews 2 some of the information that we saw in 3 the 10-K that Percocet was launched in 4 1976, right? 5 A. Yes. 6 Q. Identifies as a gold 7 standard again in pain management, right? 8 A. That's what it says. 9 Q. All right. And then the 10 last bullet point on the page says, 11 "Active lifecycle management program to 12 address market needs." 13 Do you see that? 14 A. Yes. 15 Q. And just for the moment, if 16 you go to the next page, Page 19, you see 17 the heading Percocet Lifecycle Management 18 Strategy and the chart underneath there? 19 A. Yes. 20 Q. Were you familiar with, just 21 generally, Endo's Percocet lifecycle 22 management strategy in your role as 23 overseeing Endo sales of Endocet? 24 A. I was familiar with it by</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Okay. And then we see in 2 the next couple of columns, we see light 3 blue coming into the chart and it 4 indicates that's from launch of a few new 5 strengths of Percocet, right? 6 A. Yeah. They were officially 7 called variants. 8 Q. Okay. Got it. So the 9 Percocet variants are launched. And you 10 see that in the Percocet variants, the 11 maximum strength was a 10/650? 12 A. Yes. 13 Q. And that refers to 14 10 milligrams of oxycodone versus 650 of 15 the APAP, right? 16 MS. VANNI: Object to form. 17 THE WITNESS: Yes. 18 10 milligrams of the oxycodone IR. 19 Yes. 20 BY MS. SCULLION: 21 Q. Okay. So when the variants 22 were launched, the maximum strength for 23 Percocet in terms of the oxycodone went 24 from 5 milligrams to 10 milligrams of the</p>

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<p style="text-align: right;">Page 186</p> <p>1 Oxycodone portion, right?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: Appears to,</p> <p>4 yes.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Right. So -- and then --</p> <p>7 A. Although from this chart, if</p> <p>8 I read it right, I'm not sure when -- the</p> <p>9 generic Percocet also had a -- some of</p> <p>10 the -- there was also a Percocet 10/325,</p> <p>11 and that already apparently, according to</p> <p>12 this chart, had generic competition not</p> <p>13 clear to me.</p> <p>14 Q. Yeah. Let me -- let me see</p> <p>15 if I can walk you through it then.</p> <p>16 So we have the variants</p> <p>17 being launched, right, in, it looks like</p> <p>18 Q2 2000, correct?</p> <p>19 A. I don't know when they were</p> <p>20 launched. I started in May of 2003.</p> <p>21 Q. Please look at -- if you</p> <p>22 look on the chart in the circle it says</p> <p>23 the 7.5/500, 10/650, and 2.5/325 launch,</p> <p>24 and it points to Q2 2000, right?</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Okay. But it had -- it</p> <p>2 launched while you were, is your</p> <p>3 recollection?</p> <p>4 A. Yeah, and it failed. I</p> <p>5 don't think it lasted very long.</p> <p>6 Q. Okay. Was it actively</p> <p>7 promoted by the sales force, do you</p> <p>8 recall?</p> <p>9 MS. VANNI: Object to form.</p> <p>10 THE WITNESS: My</p> <p>11 recollection is they tried to</p> <p>12 launch the product on the brand</p> <p>13 side that would mean promotion.</p> <p>14 But there didn't seem to be much</p> <p>15 of a demand for it because it</p> <p>16 didn't provide much relief.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. Okay.</p> <p>19 A. But that's just my</p> <p>20 recollection. I know it was not there --</p> <p>21 I don't recall it being there when I</p> <p>22 started. Somehow I recall it coming</p> <p>23 after I started.</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 187</p> <p>1 A. I don't know if that -- just</p> <p>2 because the circle is there, I don't -- I</p> <p>3 don't take that necessarily as fact of</p> <p>4 launch. Because my recollection is</p> <p>5 seeing this, the 2.5 launch later when I</p> <p>6 was there. So I don't know that I can</p> <p>7 testify that it launched when it shows</p> <p>8 here.</p> <p>9 Q. Okay. But then, as you</p> <p>10 were -- I think you were explaining</p> <p>11 though, Percocet, as new variants were</p> <p>12 launched, then generic versions of those</p> <p>13 variants eventually also were launched,</p> <p>14 right?</p> <p>15 A. Right.</p> <p>16 Q. And so, if you look at this</p> <p>17 chart with the various launches</p> <p>18 indicated -- strike that.</p> <p>19 Okay. Now you said you</p> <p>20 recall when you were with Endo, the 2.5</p> <p>21 variant launching to the best of your</p> <p>22 recollection?</p> <p>23 A. Yeah, to my recollection it</p> <p>24 was not there when I started.</p>	<p style="text-align: right;">Page 189</p> <p>1 A. That's why I said I don't --</p> <p>2 I can't testify to what's in that circle</p> <p>3 is accurate, because it's not my</p> <p>4 recollection.</p> <p>5 Q. Okay. And I think as you</p> <p>6 explained though, when you -- when you</p> <p>7 joined, Endo was also selling Endocet,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Was there -- was there</p> <p>11 any -- any competition between -- in your</p> <p>12 view, between Endo's sales of Percocet,</p> <p>13 the branded version, and Endocet the</p> <p>14 generic version, were those two things</p> <p>15 inconsistent?</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: No. Because</p> <p>18 as we -- Endo only sold the</p> <p>19 generic when there was another</p> <p>20 generic competitor.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. Let's go to Page 21 of</p> <p>23 Exhibit 8. Sorry, Exhibit 8. This</p> <p>24 describes Endo's generic product</p>

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<p style="text-align: right;">Page 190</p> <p>1 strategy. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. It explains there was a</p> <p>4 selective focus. The first area of focus</p> <p>5 was niche therapeutic areas, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Next it says, "Difficult to</p> <p>8 develop generics."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And was that accurate that</p> <p>12 Endo was focused on difficult to develop</p> <p>13 generics?</p> <p>14 MS. VANNI: Object to form.</p> <p>15 THE WITNESS: That was part</p> <p>16 of what I recommended as a</p> <p>17 strategy to Endo at the time, to</p> <p>18 focus on more difficult to do</p> <p>19 generics, whether it be opioids or</p> <p>20 non-opioids.</p> <p>21 MS. SCULLION: Okay. Can I</p> <p>22 have Tab 18.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. As part of the generic</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. -- as having a high barrier</p> <p>2 to entry?</p> <p>3 A. And it's also more cost --</p> <p>4 it's more costly to manufacture, and that</p> <p>5 was the reason that I mentioned earlier</p> <p>6 about the profitability is important,</p> <p>7 what makes the product significant, as</p> <p>8 the manufacture of C-II is much more</p> <p>9 difficult than manufacturing a</p> <p>10 noncontrolled drug.</p> <p>11 So opioids are a controlled</p> <p>12 drug. So it's much more difficult.</p> <p>13 There are certain -- DEA has very, very,</p> <p>14 very strict rules involving opioid</p> <p>15 products.</p> <p>16 Q. And why were you</p> <p>17 recommending that Endo focus on generic</p> <p>18 products that had barriers to entry?</p> <p>19 A. In order to have a</p> <p>20 financially viable business.</p> <p>21 Q. I mean, other generic</p> <p>22 manufacturers manufacture generics that</p> <p>23 don't have barriers to entry, correct?</p> <p>24 MS. VANNI: Object to form.</p>
<p style="text-align: right;">Page 191</p> <p>1 strategy that you recommended, were you</p> <p>2 also recommending that Endo focus on</p> <p>3 generics where there were certain</p> <p>4 barriers to entry?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: Well,</p> <p>7 difficult to do generics, that is</p> <p>8 the barrier. They're</p> <p>9 scientifically more difficult to</p> <p>10 do and, therefore, they have</p> <p>11 greater financial viability.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. Okay. And actually, if we</p> <p>14 go to the next page, staying on the same</p> <p>15 exhibit, Page 22, where it discusses</p> <p>16 generic oxycodone ER. The last bullet</p> <p>17 point there, you say "anticipate limited</p> <p>18 competition subject to exclusivity period</p> <p>19 due to high barriers to entry for</p> <p>20 controlled-release Schedule II products."</p> <p>21 Is that what you're talking</p> <p>22 about in terms of a difficult to</p> <p>23 manufacture --</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 193</p> <p>1 THE WITNESS: Other</p> <p>2 manufacturers, mostly foreign</p> <p>3 manufacturers, specifically from</p> <p>4 India or in the immediate release</p> <p>5 product, the prices are depressed</p> <p>6 because there may be eight, nine,</p> <p>7 ten players for a particular</p> <p>8 product. So the product doesn't</p> <p>9 have much value.</p> <p>10 Plus the companies in India</p> <p>11 are vertically integrated. So</p> <p>12 it's impossible to, you know, have</p> <p>13 a long-term ratable, predictable</p> <p>14 level of profitability.</p> <p>15 And products like</p> <p>16 extended-release products, whether</p> <p>17 they're control drugs or</p> <p>18 noncontrolled drugs are more</p> <p>19 difficult to do, more difficult</p> <p>20 and not everybody can do them.</p> <p>21 Plus the cost of, A,</p> <p>22 manufacturing them; B, shipping</p> <p>23 them; C, monitoring them is much,</p> <p>24 much more costly because it</p>

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<p style="text-align: right;">Page 194</p> <p>1 involves additional people.  2 To manufacture a controlled  3 drug requires two people in the  4 room. You know, you can't have a  5 drug felony conviction and handle  6 a C-II.  7 You have to restrict on a  8 card access basis to the vault  9 where two people have to access  10 the vault.  11 So there's -- the costs in  12 many cases are double because you  13 have to have two people involved  14 in the process of handling C-IIs.  15 So not everybody wants that.  16 Some companies' strategy is, hey,  17 I just want to have as many  18 products on the market as I can.  19 And if you're a foreign supplier  20 like companies in India, where you  21 have API facilities -- besides  22 they cannot participate in C-II  23 drugs they're -- or controlled  24 drugs of any kind, because control</p>	<p style="text-align: right;">Page 196</p> <p>1 controlled drugs was an attractive  2 financial area to be in to meet  3 the pain -- and there was an unmet  4 need in pain management. There's  5 many people in this country that  6 suffer from pain.  7 And that's what drugs like  8 Endo sold, both brand and generic,  9 were designed to meet, pain  10 management needs of the public.  11 BY MS. SCULLION:  12 Q. Okay. But I think you just  13 said, some of the things that made  14 generic opioids, C-II products,  15 attractive were some of the various  16 barriers to entry that you were just  17 identifying.  18 So let me just make sure I  19 understood some of those. One of them  20 that I think you identified is somewhat  21 unique to the controlled substances. And  22 that is, there is a prohibition on  23 foreign manufacturers manufacturing a  24 generic opioid and importing it into the</p>
<p style="text-align: right;">Page 195</p> <p>1 drugs require you to make the API,  2 source the API from the United  3 States and only sell the product  4 in the United States.  5 So from a variety of  6 standpoints, not many people can  7 do it. Plus, the FDA  8 historically -- I don't know if  9 they've changed. But historically  10 they didn't approve that many  11 generic suppliers of controlled  12 drugs, whether it be opioids or  13 non-opioids.  14 That -- whether that's  15 changed today I don't know. But  16 at the time, there was a feeling  17 that there weren't that many  18 players, and they wouldn't approve  19 as many. Okay. They didn't want  20 to have nine or ten players in  21 opioid drugs or controlled drugs,  22 not just opioids, controlled  23 drugs.  24 So for those reasons,</p>	<p style="text-align: right;">Page 197</p> <p>1 U.S., correct?  2 A. Yes. Both from API and  3 finished dosage.  4 Q. Okay. So that's already  5 taking out, as you said, some of the  6 vertically integrated, more  7 commodity-type manufacturers from India,  8 correct?  9 MS. VANNI: Object to form.  10 THE WITNESS: Correct.  11 BY MS. SCULLION:  12 Q. Okay. They wouldn't be  13 there to compete?  14 MS. VANNI: Object to form.  15 THE WITNESS: They wouldn't  16 be there to compete unless they  17 had a U.S. business.  18 BY MS. SCULLION:  19 Q. Right. Okay. And then I  20 think you said you also understood that,  21 I forget if you said the DEA or FDA was  22 not interested in having eight or nine or  23 ten manufacturers of generic opioids --  24 of any generic opioids?</p>

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<p style="text-align: right;">Page 198</p> <p>1 A. Or controlled drugs.</p> <p>2 Q. Okay. They wanted to limit</p> <p>3 the number of --</p> <p>4 A. That was the feeling. I</p> <p>5 don't know if they ever had a stated, you</p> <p>6 know, policy or anything like that. But</p> <p>7 that was kind of the feeling.</p> <p>8 Q. Okay. And what was your</p> <p>9 understanding about why -- why that</p> <p>10 feeling is just --</p> <p>11 A. I -- that was just the way</p> <p>12 it was. I don't know that I had a</p> <p>13 feeling.</p> <p>14 Q. Okay. Did you understand</p> <p>15 why the DEA maybe would have wanted to</p> <p>16 restrict the number of manufacturers of</p> <p>17 controlled substances?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: I don't know</p> <p>20 why. I don't know why.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. But in terms of the barriers</p> <p>23 to entry. You also said just within</p> <p>24 controlled substances, the</p>	<p style="text-align: right;">Page 200</p> <p>1 (Document marked for</p> <p>2 identification as Exhibit</p> <p>3 Endo-Stevenson-9.)</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. I'm going to hand you what's</p> <p>6 been marked as Exhibit Number 9.</p> <p>7 MS. VANNI: Thank you.</p> <p>8 MS. SCULLION: Sure.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q. And Exhibit Number 9 is</p> <p>11 Bates-stamped ENDO-OPIOID_MDL-03571186.</p> <p>12 Do you recognize Exhibit Number 9,</p> <p>13 Mr. Stevenson?</p> <p>14 A. How do you define recognize?</p> <p>15 Q. Let's try this. Do you see</p> <p>16 that at the top of Exhibit Number 9 is an</p> <p>17 e-mail from yourself to David Kerr again?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And this is in</p> <p>20 January of 2007, right?</p> <p>21 A. Yes.</p> <p>22 Q. And by this point, I think</p> <p>23 you explained, you had taken on the</p> <p>24 additional responsibilities with respect</p>
<p style="text-align: right;">Page 199</p> <p>1 extended-release products were harder to</p> <p>2 make, right?</p> <p>3 A. They are more variable.</p> <p>4 Q. Okay. And you said that</p> <p>5 that -- those entail greater costs. Did</p> <p>6 they also, though, provide, in your view,</p> <p>7 the opportunity for a greater profit</p> <p>8 margin than a commodity opioid, for</p> <p>9 example?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: Well, assuming</p> <p>12 you can attain your share target</p> <p>13 in the large accounts -- and</p> <p>14 there's no guarantee of that --</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Right.</p> <p>17 A. Then it was -- it was a</p> <p>18 higher -- it would be a higher</p> <p>19 profitability on average than a commodity</p> <p>20 product.</p> <p>21 Q. Okay. I want to come back</p> <p>22 to Percocet.</p> <p>23 MS. SCULLION: Can I have</p> <p>24 Tab 27.</p>	<p style="text-align: right;">Page 201</p> <p>1 to the trade group; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And this e-mail</p> <p>4 concerns Percocet price increase</p> <p>5 effective February 1st, 2007; is that</p> <p>6 right?</p> <p>7 A. Apparently, yes.</p> <p>8 Q. Okay. If we can put that</p> <p>9 aside for the moment.</p> <p>10 MS. SCULLION: Tab 61.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Mr. Stevenson -- I'm sorry.</p> <p>13 Were you reading something?</p> <p>14 A. No, not really.</p> <p>15 Q. Okay. If you are reading</p> <p>16 anything, I'm going to need to ask you</p> <p>17 what you're reading --</p> <p>18 A. Okay. No, I wasn't reading</p> <p>19 anything.</p> <p>20 Q. -- because I need to know</p> <p>21 what you're looking at while we're in</p> <p>22 looking -- while we're in the deposition.</p> <p>23 A. I wasn't reading anything.</p> <p>24 Q. Okay. So we talked about</p>



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<p>1 when you joined Endo, Endo was selling</p> <p>2 both Percocet and Endocet.</p> <p>3 Were you -- even though you</p> <p>4 weren't responsible for the Percocet</p> <p>5 branded promotion, were you familiar</p> <p>6 though with what the strategies were that</p> <p>7 Endo was using to market the branded</p> <p>8 version of Percocet?</p> <p>9 MS. VANNI: Object to form.</p> <p>10 THE WITNESS: Only thing I</p> <p>11 really knew was that they were --</p> <p>12 excuse me, they were promoting the</p> <p>13 Percocet like any other brand</p> <p>14 would -- like they promoted</p> <p>15 Lidoderm and non-opioids that they</p> <p>16 had in their portfolio. And</p> <p>17 that's really all I knew. I</p> <p>18 didn't get involved in the</p> <p>19 day-to-day Percocet discussion.</p> <p>20 They had a whole brand section</p> <p>21 that handled all that.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Okay.</p> <p>24 (Document marked for</p>	<p>1 page E 513.8.</p> <p>2 A. .8.</p> <p>3 Q. Upper right-hand corner.</p> <p>4 A. Okay.</p> <p>5 Q. And you see Percocet</p> <p>6 dispensed tablet trends?</p> <p>7 A. Yes.</p> <p>8 Q. And here, there is two</p> <p>9 bullet points that talk about volumes</p> <p>10 of -- sorry. Talk about the dispensed</p> <p>11 tablets for Percocet 7.5/325, and 10/325.</p> <p>12 You referred earlier to data</p> <p>13 on tablets being sold. And you recall</p> <p>14 using that tablet information on the</p> <p>15 generic side, right?</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: I recall what?</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. I'm sorry, you said -- you</p> <p>20 said IMS had tablet data available on the</p> <p>21 generic side, right?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 THE WITNESS: They had</p> <p>24 tablet and capsule data available</p>
Page 203	Page 205
<p>1 identification as Exhibit</p> <p>2 Endo-Stevenson-10.)</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. I'm going to hand you what's</p> <p>5 been marked as Exhibit 10.</p> <p>6 Exhibit 10 is Bates-stamped</p> <p>7 ENDO-OPIOID_MDL-04910731.</p> <p>8 And if you'll turn to the</p> <p>9 first page of the PowerPoint, you see</p> <p>10 it's Endo Pharmaceuticals Percocet. And</p> <p>11 it's the quarterly business review of the</p> <p>12 fourth quarter 2002, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And let's turn to, if</p> <p>15 you look in the upper right-hand corner</p> <p>16 we have some numbers that say E 513?</p> <p>17 A. Yes.</p> <p>18 Q. It makes it a little bit</p> <p>19 easier --</p> <p>20 A. Okay.</p> <p>21 Q. -- to navigate.</p> <p>22 I apologize. I lost my</p> <p>23 page. Hold on one second.</p> <p>24 Right. If you can go to</p>	<p>1 for the products, yes.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q. Okay. And this -- does this</p> <p>4 indicate that there is also tablet data</p> <p>5 available to some extent on the branded</p> <p>6 side?</p> <p>7 MS. VANNI: Object to form.</p> <p>8 THE WITNESS: Yes. They</p> <p>9 would have tablet data for --</p> <p>10 the -- IMS didn't distinguish</p> <p>11 between brand and generics.</p> <p>12 They -- they had data for product</p> <p>13 in the trade.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. Okay.</p> <p>16 A. Being sold in -- into -- in</p> <p>17 the United States.</p> <p>18 Q. Right. And if you look at</p> <p>19 the next page, you do see that in the</p> <p>20 bottom left-hand corner it references IMS</p> <p>21 MPA December 2002 --</p> <p>22 A. Yes.</p> <p>23 Q. -- in this chart actual</p> <p>24 versus planned tablets, right?</p>

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<p style="text-align: right;">Page 206</p> <p>1 A. Yes. For the record, I was 2 not there in December of 2002. 3 Q. Understood. If you go to 4 page E 513.15. 5 And this is discussing 6 forward-looking Percocet key strategies. 7 Do you see that? 8 A. I see it. Yeah. 9 Q. Okay. And so when you 10 joined Endo in 2003, were you familiar 11 with a strategy as it lists in Point 1, 12 here, to expand and accelerate usage of 13 Percocet 7.5/325 and 10/325 into the 14 overall Oxycodone market during the 15 period of exclusivity? 16 A. I wasn't familiar with the 17 specific strategy. I wasn't involved in 18 Percocet. My job at Endo was to grow the 19 generics business, period. 20 Q. Right. 21 A. And, you know, could I -- 22 could I have heard about it? That wasn't 23 my focus. So I -- I don't recall what 24 the exact strategies were, other than</p>	<p style="text-align: right;">Page 208</p> <p>1 kind of thinking. But it was never -- 2 never the guarantee. 3 BY MS. SCULLION: 4 Q. Okay. So would you have 5 been paying attention to when the 6 exclusivity for various -- for the 7 variant on Percocet was going to expire? 8 MS. VANNI: Object to form. 9 THE WITNESS: Yes. 10 BY MS. SCULLION: 11 Q. Okay. And then the next 12 bullet point speaks to "Creating a 13 transitional platform to Percocet 5/325 14 and 20/325, to provide optimal impact on 15 current line and to maximize high 16 strength launch." 17 Do you see that? 18 A. Yes. Yes. 19 Q. And again, in terms of just 20 understanding the launch of different 21 variants of Percocet and exclusivity, 22 were you familiar with a plan to 23 potentially launch these strengths of -- 24 these variants of Percocet, 15 and 20?</p>
<p style="text-align: right;">Page 207</p> <p>1 what I testified a moment ago, the basic 2 strategy was to promote Percocet to 3 physicians. That was part of what Endo 4 did. 5 Q. Now, this bullet point 6 Number 1 speaks to the period of 7 exclusivity. Do you know what that 8 refers to in relation to the Percocet 7.5 9 and 10? 10 A. It would refer to the time 11 the brand patent exclusivity was 12 exclusive because of the patent. When 13 the patent expires it would be considered 14 a loss of exclusivity. 15 Q. Okay. At the end of -- of 16 any exclusivity period for a particular 17 variant for Percocet, then Endocet would 18 come in to -- to launch, right? 19 MS. VANNI: Object to form. 20 THE WITNESS: That was the 21 plan. That was never a guarantee. 22 BY MS. SCULLION: 23 Q. Okay. 24 A. But that was -- that was the</p>	<p style="text-align: right;">Page 209</p> <p>1 MS. VANNI: Object to form. 2 THE WITNESS: No, I never 3 saw anything about those two 4 strengths. 5 BY MS. SCULLION: 6 Q. Okay. Now, if we go to 7 Page E 513.22. 8 And this discusses the 9 strategy, "Expand usage in adopters." Do 10 you see that? 11 A. Yes. 12 Q. And here it lists that "the 13 key issue was accelerate Percocet usage 14 in additional acute and chronic pain 15 types." 16 Do you see that? 17 A. Yes. 18 Q. And were you familiar with a 19 strategy at Endo starting at the end of 20 2002, carrying into when you began, to 21 accelerate Percocet usage into additional 22 acute and chronic pain types? 23 MS. VANNI: Object to form. 24 THE WITNESS: No. As I've</p>

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<p>1 already testified, my basic 2 knowledge was, of the brand side 3 of the business, is they had 4 products that they promoted. I 5 was focused on the generic side. 6 That was consuming a lot of my 7 time when I got there. 8 So that's what I -- that's 9 what I did. 10 This is the Percocet. These 11 slides, for the record, are all 12 about the brand. 13 BY MS. SCULLION: 14 Q. And did any of the -- the 15 brand strategy in terms of promotion of 16 Percocet variants while you were selling 17 Endocet, did that at all impact your 18 sales of Endocet, the strategies used to 19 sell Percocet? 20 MS. VANNI: Object to form. 21 THE WITNESS: When the 22 product was going to go generic, 23 the promotion stopped. You don't 24 promote a product that's</p>	<p>1 Q. Okay. Did it hurt your 2 sales of the variants that did have 3 generic competition? 4 MS. VANNI: Object to form. 5 THE WITNESS: No. 6 BY MS. SCULLION: 7 Q. Okay. 8 MS. SCULLION: Can I have 9 Tab 48. 10 BY MS. SCULLION: 11 Q. Mr. Stevenson, I think we 12 were -- just the exhibits that we were 13 looking at, we saw that over the years 14 Endo launched, as you said, different 15 variants of -- of Percocet, right? 16 A. Correct. 17 Q. And as those variants became 18 genericized, then filled in with Endocet, 19 correct? 20 MS. VANNI: Object to form. 21 THE WITNESS: If it was 22 Percocet, yes. 23 BY MS. SCULLION: 24 Q. Okay. And Endo did that --</p>
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<p>1 genericized. 2 BY MS. SCULLION: 3 Q. Right. 4 A. So to answer your question, 5 Endo did not -- no longer promote it to 6 my recollection, because it wouldn't have 7 made any financial sense a brand that's 8 gone generic. So you -- the expense 9 doesn't warrant that. 10 So once a product has gone 11 generic, there's no more promotion. Then 12 the only promotion was done was on the 13 variants that had no -- that didn't have 14 generic competition. 15 BY MS. SCULLION: 16 Q. Right. That -- that's a 17 question. The promotion that was 18 happening for the variants that didn't 19 have generic competition, did that impact 20 your sales of the variants that did have 21 generic competition? 22 MS. VANNI: Object to form. 23 THE WITNESS: No. 24 BY MS. SCULLION:</p>	<p>1 hold on a second. 2 MS. SCULLION: Leave it, 3 it's fine. 4 BY MS. SCULLION: 5 Q. Endo did that knowing that 6 there had been a history of abuse of -- 7 of Percocet, right? 8 MS. VANNI: Object to form. 9 THE WITNESS: Not to my 10 knowledge. 11 BY MS. SCULLION: 12 Q. You were not ware of -- 13 aware of any history of abuse of Percocet 14 when you were selling Endocet? 15 A. No, I -- no. First of all, 16 I wasn't -- for the record I wasn't 17 involved with selling Percocet. For the 18 record. 19 Q. Sure. 20 A. I was involved with the 21 generics, which do not involve promotion 22 to physicians that are -- we are 23 converting the brand business that exists 24 to generic form.</p>

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<p style="text-align: right;">Page 214</p> <p>1 As I said earlier there's a</p> <p>2 pie -- there's a brand flavor that</p> <p>3 converts. Part of that pie converts over</p> <p>4 time to the -- well, converts immediately</p> <p>5 to the generic flavor. The amount it</p> <p>6 converts increases over time.</p> <p>7 Q. So the -- as you say, the</p> <p>8 brand, and the brand promotion, creates</p> <p>9 the pie, correct?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 Misstates his testimony.</p> <p>12 THE WITNESS: The brand</p> <p>13 promotion creates the pie based on</p> <p>14 the doctor writing the</p> <p>15 prescription.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. Right.</p> <p>18 A. It all starts with the</p> <p>19 doctor.</p> <p>20 Q. Well, if the -- if Endo is</p> <p>21 not promoting the product though, would</p> <p>22 doctors be writing as -- as many</p> <p>23 prescriptions as they were?</p> <p>24 MS. VANNI: Object to form.</p>	<p style="text-align: right;">Page 216</p> <p>1 know, it -- again, it's up to the</p> <p>2 physician. It all starts with the</p> <p>3 DEA-licensed physician.</p> <p>4 Q. Right. Now, but safe to</p> <p>5 say, though, that Endo thought it was</p> <p>6 worth its while to invest money in hiring</p> <p>7 sales reps, right?</p> <p>8 MS. VANNI: Object to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Endo hired sales reps,</p> <p>12 right?</p> <p>13 A. Yes, they hired sales reps.</p> <p>14 Q. And hundreds of them, right?</p> <p>15 A. I don't know how many they</p> <p>16 had exactly.</p> <p>17 Q. Okay. They had sales reps</p> <p>18 around the country, right?</p> <p>19 A. Correct.</p> <p>20 Q. And it paid those sales reps</p> <p>21 to go and visit the doctors, right?</p> <p>22 A. Yes. They got their message</p> <p>23 out that they had the product to meet</p> <p>24 pain management requirements. That's</p>
<p style="text-align: right;">Page 215</p> <p>1 THE WITNESS: I have no</p> <p>2 idea.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. Okay. In your experience,</p> <p>5 when a -- when a brand stops promoting a</p> <p>6 product, do your prescription levels</p> <p>7 change?</p> <p>8 A. They can, yeah.</p> <p>9 Q. What's -- what's been your</p> <p>10 experience with that?</p> <p>11 A. Mixed. Sometimes the</p> <p>12 product -- I've seen products like</p> <p>13 Prilosec, which is for GERD, even though</p> <p>14 promotion has stopped a long time ago, it</p> <p>15 rises for a variety of factors. Doctors</p> <p>16 recommend that over other more newer</p> <p>17 medicines. It's hard to quantify what</p> <p>18 happens on every product in the United</p> <p>19 States.</p> <p>20 I've seen -- as I said, I've</p> <p>21 seen products that have long since</p> <p>22 stopped promotion increase because</p> <p>23 doctors, many -- in some cases prefer</p> <p>24 older products to newer products. You</p>	<p style="text-align: right;">Page 217</p> <p>1 correct.</p> <p>2 Q. Right. And again, safe to</p> <p>3 say Endo thought it was worth its while</p> <p>4 in creating promotional materials for its</p> <p>5 branded products, right?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: Based on the</p> <p>8 label that the FDA approved, yes.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q. But it spent money creating</p> <p>11 materials beyond just the label, right?</p> <p>12 It didn't just hand the doctors the</p> <p>13 labels. It created brochures, right?</p> <p>14 A. Yes, they did, yeah.</p> <p>15 Q. Right.</p> <p>16 A. They had marketing brochures</p> <p>17 that was based on --</p> <p>18 Q. Okay.</p> <p>19 A. -- the FDA-approved label,</p> <p>20 yes.</p> <p>21 Q. And fair to say Endo thought</p> <p>22 it was worth it's while creating speaker</p> <p>23 programs using doctors, right?</p> <p>24 MS. VANNI: Object to form.</p>

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<p style="text-align: right;">Page 218</p> <p>1 THE WITNESS: Well, I don't</p> <p>2 know all the -- again, that was</p> <p>3 the brand business. I don't know</p> <p>4 all the programs that they had at</p> <p>5 the time, because that was not my</p> <p>6 focus. I couldn't -- I couldn't</p> <p>7 resuscitate -- or I'm sorry,</p> <p>8 reconstruct all of the programs</p> <p>9 that they might have had doing</p> <p>10 brand marketing.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. But safe to say Endo -- Endo</p> <p>13 spent money on sales and promotion of</p> <p>14 it's branded product, correct?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: Yes, they did.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. Okay. And in doing so,</p> <p>19 generated, as you say, the prescriptions</p> <p>20 written by doctors, right?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: Based on their</p> <p>23 promotional material, the doctors</p> <p>24 felt that the product that Endo</p>	<p style="text-align: right;">Page 220</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. And then I think as you were</p> <p>3 explaining then, when the product is</p> <p>4 genericized because of loss of patent</p> <p>5 exclusivity, the generic can come in and,</p> <p>6 I think you said, change some of the</p> <p>7 flavor or parts of the pie to generic?</p> <p>8 A. I'm just trying to describe</p> <p>9 in layman's terms --</p> <p>10 Q. Yes.</p> <p>11 A. -- how it works.</p> <p>12 Q. Right.</p> <p>13 A. We don't double the pie.</p> <p>14 Okay. The pie stays the same. As a</p> <p>15 matter of fact, the DEA controls the size</p> <p>16 of the pie. Endo doesn't control the</p> <p>17 size of the pie. It all depends, on a</p> <p>18 control drug it has to deal with quota.</p> <p>19 Whatever the DEA awards on quota is what</p> <p>20 you can sell. And you can't sell one</p> <p>21 milligram more than whatever the DEA's</p> <p>22 quota allows you to sell. So that's why</p> <p>23 you have to be very careful of what you</p> <p>24 ship and make sure that it's within</p>
<p style="text-align: right;">Page 219</p> <p>1 was selling was meeting a pain</p> <p>2 management need of the patient.</p> <p>3 That's what doctors do. They</p> <p>4 write prescription that meets the</p> <p>5 need, the medical need of the</p> <p>6 patient. If they're in pain,</p> <p>7 they -- pain management product is</p> <p>8 what's required for pain. That's</p> <p>9 up to the doctor what they write.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. And -- I'm sorry.</p> <p>12 A. So that's up to the</p> <p>13 physician. They write the prescription.</p> <p>14 Q. And the results of that are</p> <p>15 measured, as you said, by looking at the</p> <p>16 number of -- the prescription levels,</p> <p>17 right?</p> <p>18 A. That's -- yes, you can look</p> <p>19 at TRx's and new Rx's, yes.</p> <p>20 Q. Okay. And so the branded</p> <p>21 promotion results in a pie that consists</p> <p>22 of a level of TRx's, right?</p> <p>23 A. Correct.</p> <p>24 MS. VANNI: Object to form.</p>	<p style="text-align: right;">Page 221</p> <p>1 demand, because if for some reason</p> <p>2 somebody bought -- your quota would be</p> <p>3 exhausted. And once your quota is</p> <p>4 exhausted for the year, unless somebody</p> <p>5 loses business, unless you can justify to</p> <p>6 the DEA why you need more quota, they</p> <p>7 won't give it to you.</p> <p>8 They are not going to say,</p> <p>9 "Oh, gee whiz, Endo. Yeah, we feel sorry</p> <p>10 for you. We're going to give you more</p> <p>11 quota." This is your quota for the year.</p> <p>12 This is what you can sell for that year.</p> <p>13 Every year, you have to go back and ask</p> <p>14 for more quota.</p> <p>15 Q. Understood. Were you</p> <p>16 involved in Endo efforts to secure DEA</p> <p>17 quota for its controlled products?</p> <p>18 A. How do you define</p> <p>19 "involved"?</p> <p>20 Q. At all?</p> <p>21 A. I didn't involve myself</p> <p>22 going to the FDA. I was involved in the</p> <p>23 discussions about quota, when we could</p> <p>24 get quota, how much quota we had, what</p>

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<p>1 our restrictions were, to make sure, as I 2 just said -- I didn't want to over -- we 3 didn't want to take on business for 4 whatever reason. And so we're talking 5 about the generic side. If somebody 6 couldn't supply -- and let's suppose an 7 account we didn't have, a large account 8 came to us, their volumes are fairly 9 large, depends what -- that kind of 10 product would not be, for lack of a 11 better phrase, just hanging around, you 12 know, doing nothing. 13 So at the end of the day, we 14 would have to, we have to stay within the 15 quota. So if somebody said we want to 16 switch to you and we were taking it from 17 competitor A, at that point in time we 18 would have to go to the DEA and say, 19 "Competitor A is losing its business. 20 It's coming to us." And then we would 21 have to ask for an increase in quota. 22 Until we got an increase in 23 quota, we could not take that business 24 on, because it would drain our quota</p>	<p>1 DEA determines the quota of the active 2 ingredient, the active pharmaceutical 3 ingredient, right? 4 A. Yes. 5 Q. That can be used. And that 6 is the actual opioid molecule, right? 7 A. Yes. 8 Q. And then all throughout the 9 chain from manufacturer to distribution 10 through -- all the way out to delivery to 11 the pharmacy, it's strictly controlled, 12 right? 13 MS. VANNI: Object to form. 14 THE WITNESS: Yes. 15 BY MS. SCULLION: 16 Q. And that's for good reason, 17 right? Because these are opioids that 18 are inherently risky products, right? 19 MS. VANNI: Object to form. 20 THE WITNESS: All control 21 drugs are inherently risky 22 products, yes. 23 BY MS. SCULLION: 24 Q. Okay. And opioids in</p>
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<p>1 down, and then our existing customers, we 2 would be out of product. 3 So it would negatively 4 impact our entire business if we were to 5 do that. 6 This was -- the quota issue 7 was something -- you can't -- if you -- 8 if you violate the DEA regulations they 9 can shut you down. So we were very, as 10 anybody selling control drugs -- and post 11 my -- post my Endo experience, we sold 12 control drugs. You make sure that you 13 are in absolute compliance with the DEA, 14 because they can shut your whole 15 operation down in a matter of minutes if 16 they have to. 17 Q. And that's particularly 18 important for the opioid category of 19 controlled substances, right? 20 A. It's important in any 21 category involving controlled substances. 22 Q. And the point of the 23 controlled substance is that it's a 24 closed system, as you say, right? The</p>	<p>1 particular, you're aware had inherent 2 risks of addiction, right? 3 MS. VANNI: Object to form. 4 THE WITNESS: I don't know 5 how you define inherent risks. So 6 I -- that -- 7 BY MS. SCULLION: 8 Q. What was your understanding 9 of what the risks were for opioids that 10 led them to be categorized as Schedule II 11 drugs? 12 A. If somebody chose to misuse 13 them and not follow direction on that 14 they were given by their physician or the 15 direction that was indicated on a -- on a 16 bottle received at the pharmacy, then if 17 they chose to abuse that product, then 18 that could be -- or any control drug 19 that's abused. Could be methylphenidate 20 extended-release, which is used for 21 attention deficit. You can misuse that, 22 just like you can misuse acetaminophen 23 today. If you take too much 24 acetaminophen, you can have liver</p>

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<p style="text-align: right;">Page 226</p> <p>1 disease.</p> <p>2 So any drug can be -- if you</p> <p>3 don't follow the exact direction that</p> <p>4 you're provided by your physician,</p> <p>5 pharmacist, it can result in an adverse</p> <p>6 event.</p> <p>7 Q. Sure. But acetaminophen is</p> <p>8 not a Schedule II drug, right?</p> <p>9 A. No. But you're still dead</p> <p>10 if you take it the wrong way.</p> <p>11 Q. Okay. But the federal</p> <p>12 government has decided that certain drugs</p> <p>13 that have risks that are so severe that</p> <p>14 they're putting them into Schedule II,</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 MS. VANNI: Object to form.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. And the risks for opioids,</p> <p>20 putting aside the word "inherent," the</p> <p>21 risks include, as you said, there's a</p> <p>22 risk for abuse, right?</p> <p>23 A. Yes.</p> <p>24 Q. Risk of misuse?</p>	<p style="text-align: right;">Page 228</p> <p>1 including opioids.</p> <p>2 Q. Okay. So again, it was --</p> <p>3 and the DEA put opioids as well as other</p> <p>4 controlled substances, but put opioids</p> <p>5 into this category of Schedule II, which</p> <p>6 is second-from-highest category of</p> <p>7 control, correct?</p> <p>8 MS. VANNI: Object to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Okay. Now let's go back</p> <p>12 though. We were talking about the pie</p> <p>13 concept of brand and generic. Okay. I</p> <p>14 just want to get back to that.</p> <p>15 A. Okay.</p> <p>16 Q. We got a little sidetracked</p> <p>17 on the DEA quotas?</p> <p>18 A. But it's related to that</p> <p>19 pie --</p> <p>20 Q. Understood.</p> <p>21 A. -- because they control how</p> <p>22 big that pie is.</p> <p>23 Q. Well, let me ask you about</p> <p>24 that. So the DEA can control the maximum</p>
<p style="text-align: right;">Page 227</p> <p>1 A. Sure.</p> <p>2 Q. Risk of addiction?</p> <p>3 A. Sure.</p> <p>4 Q. Risk of withdrawal symptoms,</p> <p>5 right?</p> <p>6 A. I don't know about the</p> <p>7 withdrawal symptoms, but yes.</p> <p>8 Q. Okay. Are you familiar at</p> <p>9 all with the phenomenon withdrawal in</p> <p>10 association with the use of opioids?</p> <p>11 A. No.</p> <p>12 Q. Never heard about or got any</p> <p>13 training on that?</p> <p>14 A. No. Again, this was</p> <p>15 generics. So --</p> <p>16 Q. Okay. Just asking the</p> <p>17 question.</p> <p>18 And there's also a risk of</p> <p>19 diversion for opioids, correct?</p> <p>20 A. There's a risk of diversion</p> <p>21 on any product.</p> <p>22 Q. But there was a risk of</p> <p>23 diversion for opioids, right?</p> <p>24 A. Sure. On any product,</p>	<p style="text-align: right;">Page 229</p> <p>1 amount that you could make the pie,</p> <p>2 right?</p> <p>3 A. They control what you can</p> <p>4 sell based on your quota.</p> <p>5 Q. Right. The maximum you can</p> <p>6 sell, right?</p> <p>7 A. Yes.</p> <p>8 Q. They don't -- but they</p> <p>9 don't -- but you can sell less than the</p> <p>10 maximum if you wanted to, right?</p> <p>11 MS. VANNI: Object to form.</p> <p>12 BY MS. SCULLION:</p> <p>13 Q. At any time given point?</p> <p>14 A. Sure, you could, or --</p> <p>15 Q. Sure.</p> <p>16 A. -- if your sales failed,</p> <p>17 yeah, you could.</p> <p>18 Q. And in fact, any company</p> <p>19 like Endo could choose to stop selling an</p> <p>20 opioid drug if the company determined</p> <p>21 that it was too risky, right?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. It has that -- it has that</p>

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<p>1 ability?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: If they want</p> <p>4 to leave an unmet need in pain</p> <p>5 management, sure, they can do</p> <p>6 that. But there's patients out</p> <p>7 there that need -- I don't agree</p> <p>8 with the characterization of the</p> <p>9 inquiry -- inquiry of the</p> <p>10 questioning.</p> <p>11 It implies that somehow Endo</p> <p>12 was doing something nefarious.</p> <p>13 No, Endo was selling an</p> <p>14 FDA-approved product that was</p> <p>15 shipped to a DEA-licensed facility</p> <p>16 that was -- where a -- and a</p> <p>17 prescription was written --</p> <p>18 fill -- written by a DEA licensed</p> <p>19 lawyer (sic), to meet the patients</p> <p>20 pain management requirement.</p> <p>21 Okay. Not everybody that</p> <p>22 took an opioid, whether it's an</p> <p>23 Endo product or a non-Endo product</p> <p>24 is an addict. That's what the</p>	<p>1 orders. And so if you've ever</p> <p>2 seen somebody in pain and you've</p> <p>3 seen their response to medications</p> <p>4 like pain management products, you</p> <p>5 would realize they meet a great</p> <p>6 need, that if not there, it would</p> <p>7 go unfulfilled and the quality of</p> <p>8 life of these people would be</p> <p>9 unbearable.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. So first, I'm sorry for your</p> <p>12 loss.</p> <p>13 A. It's a long time ago.</p> <p>14 Q. But --</p> <p>15 A. But it's just --</p> <p>16 Q. It's still -- it's still a</p> <p>17 loss, and I am sorry for that. I'm not</p> <p>18 disagreeing with you that -- and I'm not</p> <p>19 implying that every prescription for an</p> <p>20 opioid is improper.</p> <p>21 I'm just asking about the</p> <p>22 fact that there is a risk within opioids,</p> <p>23 there are certain risks that we</p> <p>24 identified, right?</p>
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<p>1 implication is. There are many</p> <p>2 people in this country that need</p> <p>3 pain management.</p> <p>4 My dad died for two weeks</p> <p>5 with cancer pain. He took</p> <p>6 morphine. If he'd have had that</p> <p>7 pain 51 years ago, he'd have been</p> <p>8 screaming in pain for two weeks.</p> <p>9 Those kind of people like my</p> <p>10 dad who was on morphine for two</p> <p>11 weeks because he had incurable</p> <p>12 cancer, without those C-IIs,</p> <p>13 opioids, he would have been</p> <p>14 screaming in pain for the last two</p> <p>15 weeks.</p> <p>16 So it's not correct to imply</p> <p>17 that everybody that sold opioid</p> <p>18 drugs was somehow selling them to</p> <p>19 addicts. We sold them to</p> <p>20 DEA-licensed facilities. They</p> <p>21 were an FDA-approved product.</p> <p>22 They went through the FDA approval</p> <p>23 process.</p> <p>24 We -- we monitored those</p>	<p>1 A. Yeah. And my -- my point</p> <p>2 is -- and you know, I don't mean to be</p> <p>3 argumentative. So please forgive me if it</p> <p>4 comes across. There's a risk of every</p> <p>5 drug sold in the United States of</p> <p>6 America. If you watch any consumer ad,</p> <p>7 you see all the caveats at the end.</p> <p>8 That's for a reason.</p> <p>9 And some of them actually</p> <p>10 say, including death.</p> <p>11 Q. Right.</p> <p>12 A. So there's a risk. If you</p> <p>13 misuse -- a drug is a chemical substance.</p> <p>14 If you misuse that chemical substance,</p> <p>15 whether it's an opioid or non-opioid, you</p> <p>16 can have an adverse event that will not</p> <p>17 result in a good outcome.</p> <p>18 Q. All right. Understood.</p> <p>19 MS. VANNI: Whenever you are</p> <p>20 at a logical stopping place, I</p> <p>21 think lunch is here. We've been</p> <p>22 going almost two hours I think.</p> <p>23 MS. SCULLION: Yeah, this is</p> <p>24 fine. This is actually a fine</p>

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<p style="text-align: right;">Page 234</p> <p>1 place to stop.</p> <p>2 MS. VANNI: Yeah? You're</p> <p>3 sure?</p> <p>4 MS. SCULLION: Yeah.</p> <p>5 THE VIDEOGRAPHER: Off the</p> <p>6 record, 12:15.</p> <p>7 - - -</p> <p>8 (Lunch break.)</p> <p>9 - - -</p> <p>10 THE VIDEOGRAPHER: We are</p> <p>11 back on the record at 1 o'clock.</p> <p>12 - - -</p> <p>13 EXAMINATION</p> <p>14 - - -</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Welcome back, Mr. Stevenson.</p> <p>17 You understand that you're still under</p> <p>18 oath?</p> <p>19 A. I do.</p> <p>20 Q. Good. Thank you. I want to</p> <p>21 focus now on the generic oxycodone</p> <p>22 extended-release product, generic</p> <p>23 OxyContin.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 236</p> <p>1 which is again easier to find if you see</p> <p>2 the left hand page, it'd be Page 12, and</p> <p>3 the next one is 13.</p> <p>4 A. Yes. Mm-hmm.</p> <p>5 Q. And at the top, it says,</p> <p>6 "Table of contents." In the middle of</p> <p>7 the page, do you see it says "oxycodone"</p> <p>8 in italics?</p> <p>9 A. Yes.</p> <p>10 Q. Oxycodone ER, I should say.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And in here it says,</p> <p>13 "We've also developed an extended-release</p> <p>14 oxycodone, an AB-rated generic version of</p> <p>15 OxyContin, a product of the Purdue</p> <p>16 Frederick company, according to IMS</p> <p>17 retail provider prospective data,</p> <p>18 OxyContin generated U.S. sales of</p> <p>19 approximately \$1.8 billion in 2004."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes. \$1.8 billion in 2004.</p> <p>22 Yes.</p> <p>23 Q. Okay. And Purdue claimed</p> <p>24 that it had patents that covered the --</p>
<p style="text-align: right;">Page 235</p> <p>1 Q. Do you recall that product?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And that was a</p> <p>4 product that you had responsibility for,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And OxyContin was a</p> <p>8 product that Purdue originally had</p> <p>9 developed and sold, correct?</p> <p>10 A. It was -- yeah, it was a</p> <p>11 brand product that was marketed by Purdue</p> <p>12 Pharma.</p> <p>13 Q. Okay. Do you recall that in</p> <p>14 2004, the market for the oxycodone</p> <p>15 extended-release product was about</p> <p>16 \$1.9 billion?</p> <p>17 A. I don't recall that specific</p> <p>18 a number from almost 15 years ago, no.</p> <p>19 Q. Okay. I actually should say</p> <p>20 at 1.8 billion. If you look quickly back</p> <p>21 at Exhibit 7.</p> <p>22 A. Okay.</p> <p>23 Q. Exhibit 7, again this is the</p> <p>24 10-K. If you'll turn to page -- Page 13,</p>	<p style="text-align: right;">Page 237</p> <p>1 covered OxyContin, right?</p> <p>2 A. Yeah.</p> <p>3 Q. And as part of its generic</p> <p>4 strategy, Endo decided to try to get a</p> <p>5 part of the OxyContin market, right?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: It tried --</p> <p>8 it -- it wanted to have a generic</p> <p>9 version of OxyContin to</p> <p>10 participate in that market by</p> <p>11 converting the brand to the</p> <p>12 generic, yes.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. Okay. And -- and, in fact,</p> <p>15 in order to do so, Endo had to do more</p> <p>16 than just develop its own oxycodone</p> <p>17 extended-release product. It had to</p> <p>18 actually challenge Purdue's patents,</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. It had to submit what's</p> <p>22 called a Paragraph IV challenge to</p> <p>23 produce patents, right?</p> <p>24 A. Yes. Paragraph IV under the</p>

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<p style="text-align: right;">Page 238</p> <p>1 Hatch-Waxman law that governs generic --</p> <p>2 generics in the United States.</p> <p>3 Q. Okay. And then when Endo</p> <p>4 did that, let me see if it says it</p> <p>5 here -- strike that.</p> <p>6 If you look back, right</p> <p>7 where you're looking at Exhibit 7 again.</p> <p>8 It explains that "Endo has received final</p> <p>9 approval from the FDA for bioequivalent</p> <p>10 versions of the 10 milligram,</p> <p>11 20 milligram, 40 milligram, 80-milligram</p> <p>12 strengths of OxyContin."</p> <p>13 Do you see that?</p> <p>14 A. I just saw it a moment ago.</p> <p>15 Yes.</p> <p>16 Q. Okay. And Endo was first to</p> <p>17 file a Paragraph IV challenge to Purdue's</p> <p>18 patents on three out of four of those</p> <p>19 strengths, right?</p> <p>20 A. Yes, the 10, the 20, and the</p> <p>21 40-milligram. Yes.</p> <p>22 Q. And what is the significance</p> <p>23 of Endo being the first to file</p> <p>24 Paragraph IV challenges to those</p>	<p style="text-align: right;">Page 240</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Okay. When Endo challenged</p> <p>3 Purdue's patents and was first to file,</p> <p>4 did Endo regard that as a valuable</p> <p>5 opportunity for Endo?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: Well, I was</p> <p>8 not there when they filed the</p> <p>9 product.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. At the time you joined, Endo</p> <p>12 was still challenging the patents,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And did Endo, when you</p> <p>16 joined, did it regard the first to file</p> <p>17 exclusivity possibility as a valuable</p> <p>18 possibility?</p> <p>19 MS. VANNI: Object to form.</p> <p>20 THE WITNESS: It was -- it</p> <p>21 was -- it was -- it was still</p> <p>22 deemed to be a worthwhile</p> <p>23 opportunity.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: right;">Page 239</p> <p>1 strengths?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: It would allow</p> <p>4 you to launch the product.</p> <p>5 Originally it was designed to</p> <p>6 give -- it was designed under the</p> <p>7 Hatch-Waxman law as a reward to</p> <p>8 the generic filer, whether it was</p> <p>9 an opioid drug or non-opioid drug,</p> <p>10 that you would get six months of</p> <p>11 market exclusivity before other</p> <p>12 competitors could launch the</p> <p>13 product.</p> <p>14 However, a new concept</p> <p>15 developed that became known in</p> <p>16 the -- in the business as</p> <p>17 authorized generics, where the</p> <p>18 brand company could, after the</p> <p>19 litigation was resolved, could</p> <p>20 enter the market through what's</p> <p>21 called as -- an authorized generic</p> <p>22 by having their generic version of</p> <p>23 the brand marketed by a generic --</p> <p>24 a generic player.</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. And what were the advantages</p> <p>2 to Endo, if Endo did get exclusivity as a</p> <p>3 result of being the first to file?</p> <p>4 A. Well, if you had</p> <p>5 exclusivity, but, you know, for the</p> <p>6 record IVAX was -- they became the</p> <p>7 authorized generic for Purdue Pharma, so</p> <p>8 we were not exclusive.</p> <p>9 But during the exclusivity</p> <p>10 period or -- generic pricing is</p> <p>11 determined by the amount of competitors.</p> <p>12 So it could be -- it could be a</p> <p>13 profitable product because of -- you</p> <p>14 have -- you could have potentially a</p> <p>15 higher price, therefore, higher profits.</p> <p>16 It could also -- if it was</p> <p>17 significant product, also help your</p> <p>18 business, you know, that you were a</p> <p>19 player. It would help your -- you were a</p> <p>20 niche player in the generic market, that</p> <p>21 we were no longer this little, you know,</p> <p>22 generic company anymore, because we -- I</p> <p>23 think I had articulated or testified</p> <p>24 earlier that, you know, we were looking</p>



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<p style="text-align: right;">Page 242</p> <p>1 at expanding our business beyond the --</p> <p>2 the C-II products or controlled drugs</p> <p>3 products that we had, the opioid products</p> <p>4 we had.</p> <p>5 So it -- it reinforced the</p> <p>6 image or story that generic -- that Endo</p> <p>7 was -- was there for the long-term.</p> <p>8 Because we would be able to have a</p> <p>9 significant product get through the FDA</p> <p>10 approval process, and get through the</p> <p>11 legal gauntlet, only enhanced Endo's</p> <p>12 image with the trade that, you know,</p> <p>13 they -- they are a longer term player.</p> <p>14 Q. Okay. You mentioned that</p> <p>15 one of the potential values for</p> <p>16 exclusivity would be the opportunity to</p> <p>17 charge a higher price than if there were</p> <p>18 multiple generic competitors, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Did the possibility</p> <p>21 of not having multiple generic</p> <p>22 competitors, was that also an advantage</p> <p>23 in terms of getting the exclusive</p> <p>24 arrangements with the retail pharmacies</p>	<p style="text-align: right;">Page 244</p> <p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: Not</p> <p>3 necessarily.</p> <p>4 You know, they -- my</p> <p>5 experience has been that those</p> <p>6 people that are expecting approval</p> <p>7 start agitating pretty quickly</p> <p>8 after the exclusivity period</p> <p>9 begins to make sure that people</p> <p>10 know they are coming in a couple</p> <p>11 months.</p> <p>12 Number 2, you can't possibly</p> <p>13 supply everybody when you have</p> <p>14 more competition, because all</p> <p>15 you're going to do is destroy your</p> <p>16 profitability. They have nowhere</p> <p>17 to go but just to take the price</p> <p>18 down. So at that point in time it</p> <p>19 becomes a market share game, how</p> <p>20 much market share do you want. Or</p> <p>21 more -- how much -- how much do</p> <p>22 you want, and then how much do you</p> <p>23 actually get. It may not be the</p> <p>24 same thing.</p>
<p style="text-align: right;">Page 243</p> <p>1 we talked about earlier.</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: I'm not sure I</p> <p>4 understand the question.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Do you recall we talked</p> <p>7 about with like -- an example was CVS</p> <p>8 would carry one generic at any time?</p> <p>9 A. Well, if you're the only</p> <p>10 generic then they were going to carry</p> <p>11 your product. It was --</p> <p>12 Q. Right.</p> <p>13 A. -- perhaps, you know, there</p> <p>14 was never over the larger count a lay-up,</p> <p>15 as you call it.</p> <p>16 Q. Right.</p> <p>17 A. But all things being equal,</p> <p>18 they would carry your product.</p> <p>19 Q. Okay. And would it be an</p> <p>20 advantage to the first generic on the</p> <p>21 market to already be in -- in -- sorry,</p> <p>22 be in place with the retail chains in the</p> <p>23 event that another generic launched,</p> <p>24 would that be a slight advantage?</p>	<p style="text-align: right;">Page 245</p> <p>1 So there's -- it doesn't</p> <p>2 follow that because you were</p> <p>3 exclusive for some period of time,</p> <p>4 although we were not exclusive,</p> <p>5 because IVAX had the authorized</p> <p>6 generic. But if you were</p> <p>7 exclusive, it does not follow that</p> <p>8 that gives you an automatic</p> <p>9 advantage in the post-exclusivity</p> <p>10 period.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Right. Thanks. That helps.</p> <p>13 So understanding that</p> <p>14 you're -- you're not a lawyer, you are</p> <p>15 aware that Endo did put a great deal of</p> <p>16 effort into litigating the challenge to</p> <p>17 produce patents, correct?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: Yeah. They --</p> <p>20 they put a great deal of effort.</p> <p>21 They went through the lower court</p> <p>22 case and the appellate court case.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. Okay. And now, by the time</p>

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<p style="text-align: right;">Page 246</p> <p>1 Endo was challenging Purdue's patents and</p> <p>2 looking to participate in the oxycodone</p> <p>3 extended-release market, there was</p> <p>4 substantial information concerning abuse</p> <p>5 of OxyContin, correct?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: I think I</p> <p>8 would categorize it as abuse of</p> <p>9 the use of a particular drug.</p> <p>10 Perhaps, you know, there was stuff</p> <p>11 in the press about abuse of the</p> <p>12 use of the drug.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. Okay. Well, putting aside</p> <p>15 the press -- and there were a number of</p> <p>16 reports, correct, around abuse of</p> <p>17 OxyContin?</p> <p>18 A. Abuse of the use of it, yes.</p> <p>19 Q. Abuse of the use, right,</p> <p>20 including in Pennsylvania and the</p> <p>21 Philadelphia area, right?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 THE WITNESS: I have no idea</p> <p>24 where they are.</p>	<p style="text-align: right;">Page 248</p> <p>1 Okay? Thank you.</p> <p>2 (Document marked for</p> <p>3 identification as Exhibit</p> <p>4 Endo-Stevenson-12.)</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Let me show you what's been</p> <p>7 marked as Exhibit 12.</p> <p>8 A. Are we done with the 10-K?</p> <p>9 Q. For the moment, yeah.</p> <p>10 A. Okay.</p> <p>11 Q. And Exhibit 12, for the</p> <p>12 record, is Bates-stamped</p> <p>13 ENDO-OPIOID_MDL-03256655.</p> <p>14 Mr. Stevenson, do you see</p> <p>15 that Exhibit 12 states on its cover</p> <p>16 that's a December 2003 GAO report and</p> <p>17 entitled Prescription Drugs, OxyContin</p> <p>18 Abuse and Diversion and Efforts to</p> <p>19 Address the Problem?</p> <p>20 A. Yes.</p> <p>21 Q. If you could just skim over</p> <p>22 it just to tell me if you have any</p> <p>23 recollection of ever having read the</p> <p>24 report or any part of it?</p>
<p style="text-align: right;">Page 247</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Okay.</p> <p>3 A. I mean it wasn't something</p> <p>4 that I followed, to be honest. It was</p> <p>5 something, you might have read about it,</p> <p>6 yes, okay, heard about in the news or</p> <p>7 whatever. But it wasn't something that I</p> <p>8 really focused on to be honest.</p> <p>9 Q. So then in addition to the</p> <p>10 media reports that you say you weren't</p> <p>11 looking at, you are aware though that the</p> <p>12 GAO, the United States General Accounting</p> <p>13 Office, did issue a report in</p> <p>14 December 2003 concerning OxyContin abuse</p> <p>15 and diversion?</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: No, I'm not</p> <p>18 aware of that.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. You are not familiar at all</p> <p>21 with the GAO issuing this report?</p> <p>22 A. No.</p> <p>23 MS. SCULLION: Let me just</p> <p>24 show it to you, just to make sure.</p>	<p style="text-align: right;">Page 249</p> <p>1 A. No, I've never seen it</p> <p>2 before.</p> <p>3 Q. Did you ever hear anyone</p> <p>4 discuss the GAO report?</p> <p>5 A. No.</p> <p>6 Q. Let's -- let's go to Page 9</p> <p>7 of the report. If you'll look on the</p> <p>8 bottom of the page, you'll see the page</p> <p>9 numbers.</p> <p>10 A. Oh, 9. Okay.</p> <p>11 Q. Yeah.</p> <p>12 A. I thought you were going to</p> <p>13 test my Roman numeral skills.</p> <p>14 Q. I'm sure you would do better</p> <p>15 than me. We already saw my math skills</p> <p>16 are not great.</p> <p>17 A. Okay. Page 9.</p> <p>18 Q. You got it. And, again, to</p> <p>19 make sure we're on the same page, in the</p> <p>20 middle of that page is a paragraph that</p> <p>21 begins "OxyContin sales and prescriptions</p> <p>22 grew rapidly."</p> <p>23 Are we on the same page?</p> <p>24 A. Yes, yes.</p>

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<p style="text-align: right;">Page 250</p> <p>1 Q. Okay. So the sentence there 2 says, "OxyContin sales and prescriptions 3 grew rapidly following its market 4 introduction in 1996." 5 And a little further down in 6 the paragraph states, "In both 2001 and 7 2002, oxy sales exceeded \$1 billion and 8 prescriptions were over 7 million." 9 Do you see that? 10 A. I see that's what it says, 11 yes. 12 Q. Is that consistent with 13 your -- your general understanding of the 14 growth of OxyContin during that time 15 period? 16 MS. VANNI: Object to form. 17 THE WITNESS: I -- I 18 wouldn't have followed it that 19 way. We would have followed it 20 based on -- we would have modeled 21 things off of tablets and capsules 22 and, you know, what the -- this is 23 not -- first of all, I wasn't here 24 at the time. I was still at</p>	<p style="text-align: right;">Page 252</p> <p>1 you recall in terms of what you were 2 referring to as media reports of abuse of 3 the use of OxyContin? 4 A. I don't remember the year. 5 But, you know, I just remember media 6 reports. When it occurred, I don't know 7 when I first picked up on it. 8 Q. Okay. And it goes onto 9 explain that, "These media" -- "These 10 reports first appeared in rural areas of 11 some states, generally in the Appalachian 12 region." Do you see that? 13 A. Yes. 14 Q. Do you recall that 15 Appalachia in particular had a lot of 16 reports of OxyContin abuse -- abuse and 17 diversion? 18 MS. VANNI: Object to form. 19 THE WITNESS: No, I don't 20 recall that. 21 BY MS. SCULLION: 22 Q. Okay. And then it says in 23 the next sentence, "Rural communities in 24 Maine, Kentucky, Ohio, Pennsylvania,</p>
<p style="text-align: right;">Page 251</p> <p>1 Geneva Sandoz at the time. 2 BY MS. SCULLION: 3 Q. To be clear, this is 4 December of 2003. 5 A. No, you were referring to 6 the paragraph here about -- 7 Q. Oh, thank you very much. 8 A. -- 2001 and 2002 -- 9 Q. Yes. Correct? 10 A. -- I was not there. 11 Q. Correct. Fair enough. 12 But you have no reason to 13 doubt the accuracy of what the GAO was 14 reporting, right? 15 MS. VANNI: Object to form. 16 THE WITNESS: No reason for 17 me to doubt it. 18 BY MS. SCULLION: 19 Q. The next paragraph refers 20 to, I think, something that you were also 21 discussing, which is media reports of 22 OxyContin abuse and diversion began to 23 surface in 2000. 24 Is that consistent with what</p>	<p style="text-align: right;">Page 253</p> <p>1 Virginia, and West Virginia were 2 reportedly being devastated by the abuse 3 and diversion of OxyContin." 4 Do you see that? 5 A. Yes. 6 Q. In the early 2000s, were you 7 living in Pennsylvania? 8 A. Yes. 9 Q. Do you recall there being 10 reports about rural communities within 11 Pennsylvania being devastated by the 12 abuse and diversion of OxyContin? 13 A. Not -- not really. I mean, 14 I -- as I testified, I just recall, you 15 know, general media -- media accounts. 16 Where -- I don't -- I can't recall any 17 specific location. 18 Q. Okay. But you have no 19 reason to doubt that, again, the accuracy 20 of what the GAO is reporting in terms of 21 rural communities in these states, 22 including Ohio, Pennsylvania, West 23 Virginia, reportedly being devastated? 24 MS. VANNI: Object to form,</p>

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<p style="text-align: right;">Page 254</p> <p>1 foundation.</p> <p>2 THE WITNESS: I have no --</p> <p>3 no reason to doubt that's what's</p> <p>4 being written there.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. Okay. And if we go onto the</p> <p>7 next page, 10, the paragraph continues.</p> <p>8 And just going down, third line from the</p> <p>9 top. The sentence that begins, or</p> <p>10 states, "Pain patients, teens, and</p> <p>11 recreational drug users who had abused</p> <p>12 OxyContin reportedly entered drug</p> <p>13 treatment centers sweating and vomiting</p> <p>14 with withdrawal."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. And so this is talking about</p> <p>18 not only recreational drug users -- those</p> <p>19 would be people using it for nonmedical</p> <p>20 purposes, right? A recreational drug</p> <p>21 user is a person using it for nonmedical</p> <p>22 purposes, right?</p> <p>23 A. Are you asking me to testify</p> <p>24 that's written here? I'm sorry.</p>	<p style="text-align: right;">Page 256</p> <p>1 to right here.</p> <p>2 THE WITNESS: Yeah, I know.</p> <p>3 I see that. But the last</p> <p>4 question, I'm trying to find where</p> <p>5 it's --</p> <p>6 BY MS. SCULLION:</p> <p>7 Q. Sure. So as long as we are</p> <p>8 on the same page, let me start again.</p> <p>9 So the GAO is reporting</p> <p>10 that, in addition to recreational drug</p> <p>11 users, there also were pain patients who</p> <p>12 were reportedly entering drug treatment</p> <p>13 centers sweating and vomiting from</p> <p>14 withdrawal?</p> <p>15 A. Oh, and recreation -- "who</p> <p>16 had abused OxyContin reportedly entered</p> <p>17 drug treatment centers sweating and</p> <p>18 vomiting from withdrawal."</p> <p>19 Yes, that's what it says.</p> <p>20 Q. Okay.</p> <p>21 A. I'm not sure. Did I answer</p> <p>22 your question?</p> <p>23 Q. Yes. That's what it says.</p> <p>24 That's what GAO is reporting. And pain</p>
<p style="text-align: right;">Page 255</p> <p>1 Q. No, I'm asking -- I'm just</p> <p>2 asking just your understanding of the</p> <p>3 phrase "recreational drug users." That</p> <p>4 would refer to nonmedical users, right?</p> <p>5 A. I guess. I assume. I guess</p> <p>6 you can interpret it that way.</p> <p>7 Q. Okay. And the GAO explains</p> <p>8 that, in addition to recreational drug</p> <p>9 users, there also were pain patients who</p> <p>10 were reportedly entering drug treatment</p> <p>11 centers, correct? That's what the GAO is</p> <p>12 reporting?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: Where is that</p> <p>15 located?</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. The sentence says pain</p> <p>18 patients.</p> <p>19 A. Pain patients.</p> <p>20 Q. "Pain patients, teens, and</p> <p>21 recreational drug users."</p> <p>22 A. Okay.</p> <p>23 Q. Do you see that?</p> <p>24 MS. VANNI: She's referring</p>	<p style="text-align: right;">Page 257</p> <p>1 patients, those would be people under</p> <p>2 medical supervision, right? They're a</p> <p>3 patient?</p> <p>4 MS. VANNI: Object to form.</p> <p>5 THE WITNESS: Pain patients</p> <p>6 would be somebody under a</p> <p>7 physician's care, yes.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q. And next sentence discusses</p> <p>10 reports concerning West Virginia.</p> <p>11 The next sentence says, "The</p> <p>12 media also reported on deaths due to</p> <p>13 OxyContin."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And that was also true,</p> <p>17 right, that their media was report that</p> <p>18 go there were deaths from OxyContin?</p> <p>19 MS. VANNI: Objection.</p> <p>20 THE WITNESS: I don't --</p> <p>21 again, I wasn't following it that</p> <p>22 closely. You know, there was --</p> <p>23 there was always a potential for</p> <p>24 abuse on a -- on any drug.</p>

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<p style="text-align: right;">Page 258</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Okay. Let's go down then to</p> <p>3 the next paragraph. Looking at the very</p> <p>4 last sentence of the next paragraph,</p> <p>5 which states, "The most recent data</p> <p>6 available from DEA show that as of</p> <p>7 February 2002, the agency had verified</p> <p>8 146 deaths nationally involving OxyContin</p> <p>9 in 2000 and 2001."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And you have no reason to</p> <p>13 doubt the accuracy, again, of what GAO is</p> <p>14 reporting there, right?</p> <p>15 A. No.</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: No doubt. No</p> <p>18 reason to doubt.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Before you joined Endo, had</p> <p>21 you ever -- had any of the products that</p> <p>22 you've been involved in, any of the</p> <p>23 pharmaceutical products you had been</p> <p>24 involved in, had death rates of that</p>	<p style="text-align: right;">Page 260</p> <p>1 meeting agreed to, I remember, sometime</p> <p>2 in 2003 in order to -- for the DEA to</p> <p>3 better understand what our intention was</p> <p>4 with oxycodone ER.</p> <p>5 They didn't really</p> <p>6 understand generics. Most people don't.</p> <p>7 They don't understand how generic</p> <p>8 conversion works. So it was a mutually</p> <p>9 agreed-upon meeting that we were thrilled</p> <p>10 to have, and they were thrilled to have</p> <p>11 with us as well.</p> <p>12 MS. SCULLION: Can I have</p> <p>13 Tab 1 and Tab 54, please.</p> <p>14 (Document marked for</p> <p>15 identification as Exhibit</p> <p>16 Endo-Stevenson-13.)</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. Mr. Stevenson, I'm going to</p> <p>19 hand you what's been marked as</p> <p>20 Exhibit 13.</p> <p>21 A. Okay.</p> <p>22 Q. And Exhibit 13 is</p> <p>23 Bates-stamped ENDO-OPIOID_MDL-03002818.</p> <p>24 And, Mr. Stevenson, do you</p>
<p style="text-align: right;">Page 259</p> <p>1 level, 146 deaths in two years?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: I have no</p> <p>4 idea.</p> <p>5 BY MS. SCULLION:</p> <p>6 Q. The same year that the GAO</p> <p>7 issued the report that we were just</p> <p>8 looking at, Exhibit 12.</p> <p>9 The DEA came to Endo and</p> <p>10 expressed some concerns it had about</p> <p>11 Endo's potential launch of generic</p> <p>12 OxyContin, correct?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: When? I'm</p> <p>15 sorry. When was this?</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. The same year, 2003.</p> <p>18 A. I'm not sure if the DEA came</p> <p>19 to Endo. We weren't summoned or anything</p> <p>20 like that. I think there was a -- what I</p> <p>21 remember there was some discussion with</p> <p>22 the DEA by phone. And there was --</p> <p>23 either they invited. You know, you don't</p> <p>24 just march into the DEA. And there was a</p>	<p style="text-align: right;">Page 261</p> <p>1 recognize Exhibit 13 as a series of</p> <p>2 e-mails in September of 2003 that</p> <p>3 involved you as well as others at Endo?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Let's go to the last</p> <p>6 page of Exhibit 13.</p> <p>7 A. Is that the back page?</p> <p>8 Q. It is. And this is the page</p> <p>9 at the very top, has an e-mail from Dan</p> <p>10 Carbery, dated September 5th, 2003,</p> <p>11 6:35 p.m.</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And it's addressed to</p> <p>14 yourself and to MaryAlice Raudenbush,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And who was Dan Carbery at</p> <p>18 that time? What was his position?</p> <p>19 A. I think he was VP of</p> <p>20 operations.</p> <p>21 Q. Okay. And Ms. Raudenbush,</p> <p>22 who was she?</p> <p>23 A. She was the head of</p> <p>24 regulatory affairs.</p>



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<p style="text-align: right;">Page 262</p> <p>1 Q. There's cc'd on here, Jill 2 Connell. 3 A. Connell. 4 Q. Connell. Thank you. I keep 5 doing that. Jill Connell. Do you recall 6 Ms. Connell's position? 7 A. She worked for Dan Carbery. 8 I don't remember her exact title. 9 Q. Okay. And Sue Tolen, do you 10 remember who she was? 11 A. No. 12 Q. And the subject is "EN3218 13 quota request and risk management 14 questions." 15 Do you see that? 16 A. Yes. 17 Q. And EN3218, that's -- that 18 was Endo internal code number at the time 19 for generic OxyContin, correct? 20 A. For oxycodone ER, yes. 21 Q. Okay. And then in his 22 e-mail, the first sentence, Mr. Carbery 23 states, "Endo has been asked by the DEA 24 to meet with the quota and diversion</p>	<p style="text-align: right;">Page 264</p> <p>1 reporting that the DEA asked for a 2 meeting, correct? 3 A. Well, I can't tell you his 4 choice of words. My understanding -- I 5 can testify, my understanding is that we 6 were not -- we were not summoned by the 7 FDA. 8 Q. The DEA? 9 A. We were -- we were not 10 summoned by the FDA. My understanding 11 there was a conference call. During that 12 conference call, they may have said, "Hey 13 can you guys -- you know, would you" -- 14 you know, we wanted -- we were seeking 15 the opportunity to have a direct dialogue 16 with them. 17 So his -- I can't speak for 18 his choice of words. But I just want to 19 make clear for the record, we were not 20 summoned to go there. 21 Q. I'm not suggesting you were 22 summoned. 23 A. Okay. Okay. 24 Q. I'm just saying, he's</p>
<p style="text-align: right;">Page 263</p> <p>1 group on September 22nd or 23 to discuss 2 our 'marketing and risk management plan' 3 for oxy ER." 4 Do you see that? 5 A. Yes. 6 Q. So as Mr. Carbery -- you 7 have no reason to doubt the accuracy of 8 what Mr. Carbery was stating in his 9 e-mail, right? 10 MS. VANNI: Object to form. 11 THE WITNESS: Well, I 12 have -- I have no reason to doubt. 13 But I need to point out that 14 "marketing" is in quotation. 15 "Marketing and risk management 16 plan" is in quotations. So again, 17 marketing for oxycodone ER is not 18 traditional marketing used for the 19 brand, just so -- for the record. 20 BY MS. SCULLION: 21 Q. Sure. And we'll -- we'll 22 talk about that in a -- in a bit. We 23 talked about it some more before. But I 24 wanted to point out, so Mr. Carbery is</p>	<p style="text-align: right;">Page 265</p> <p>1 reporting that Endo was asked by the DEA 2 to meet. And as you said, in the next 3 sentence, he says -- it refers to a 4 teleconference that was held to clarify 5 what the general questions are. 6 So if I understand what he's 7 saying, DEA asked for a meeting, and then 8 there was a teleconference to say, "Yeah, 9 what would you like to talk about?" 10 Right? 11 MS. VANNI: Object to form. 12 THE WITNESS: My 13 understanding is we were both 14 seeking a meeting. I can't speak 15 for how he phrased it. But we 16 were thrilled to have a meeting 17 with them. I mean, that's my 18 understanding. 19 MS. SCULLION: Counsel, if 20 there are any records indicating 21 that Endo asked for the meeting 22 with DEA, we have not seen those. 23 THE WITNESS: I'm not sure 24 that we asked for the meeting.</p>

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<p>1 Just to be clear, there was a --</p> <p>2 my understanding is there was a</p> <p>3 teleconference. My recollection</p> <p>4 is there was a -- there was a call</p> <p>5 of some kind. I didn't</p> <p>6 participate in the call.</p> <p>7 At that meeting, the idea of</p> <p>8 a meeting -- at that -- in that</p> <p>9 teleconference, the idea of a</p> <p>10 meeting came up.</p> <p>11 And -- but the point is we</p> <p>12 were not officially summoned by</p> <p>13 the DEA, you know, to be here, be</p> <p>14 at a certain place.</p> <p>15 BY MS. SCULLION:</p> <p>16 Q. Okay.</p> <p>17 A. I can't speak to how -- I</p> <p>18 don't know that we asked for the meeting.</p> <p>19 I think we were hoping we would have a</p> <p>20 meeting. Who asked for what, I can't</p> <p>21 testify. I know we were not summoned to</p> <p>22 go down there as -- summoned or else.</p> <p>23 It was a meeting where they</p> <p>24 wanted to understand about the generic</p>	<p>1 DEA's approval for a quota for the opioid</p> <p>2 to be used to manufacture the generic</p> <p>3 oxycodone ER product, right?</p> <p>4 MS. VANNI: Object to form.</p> <p>5 THE WITNESS: It's a quota</p> <p>6 for the API, yes.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q. Yeah. Okay.</p> <p>9 Now if you go to the first</p> <p>10 page of Exhibit 13. Now looking at an</p> <p>11 e-mail, follow-up e-mail from Jill</p> <p>12 Connell to you.</p> <p>13 A. Yeah.</p> <p>14 Q. And she says, "It's a</p> <p>15 follow-up to the telephone conversation</p> <p>16 with the DEA," right?</p> <p>17 A. Yeah.</p> <p>18 Q. And she says, "DEA is</p> <p>19 questioning our choice of Prozac as a</p> <p>20 comparison for our rate of conversion.</p> <p>21 They suggested we use MS Contin generic</p> <p>22 conversion rate."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p>
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<p>1 business, how -- how oxycodone would be</p> <p>2 with respect to OxyContin. And we wanted</p> <p>3 to have -- we were thrilled at the</p> <p>4 opportunity to go down there and explain</p> <p>5 it to them, to try and alleviate any --</p> <p>6 any concerns or issues that they might</p> <p>7 have. To make sure their understanding</p> <p>8 was correct and not subject to somebody</p> <p>9 else's, you know, interpretation.</p> <p>10 Q. Understood. So regardless</p> <p>11 of how the meeting came about --</p> <p>12 A. Okay.</p> <p>13 Q. -- Mr. Carbery goes on in</p> <p>14 his next sentence, if you'll take a look,</p> <p>15 to say that "they said we won't get quota</p> <p>16 approval until we meet with them."</p> <p>17 Do you see that? It's the</p> <p>18 next paragraph, first sentence.</p> <p>19 "However, they said we won't</p> <p>20 get quota approval until we meet with</p> <p>21 them."</p> <p>22 A. Yeah, I see that.</p> <p>23 Q. Okay. And the quota</p> <p>24 approval there, that's referring to again</p>	<p>1 Q. And the discussion of rate</p> <p>2 of conversion and generic conversion</p> <p>3 rate, what is that, just what is that</p> <p>4 concept, what's it referring to?</p> <p>5 A. Well, whenever a generic</p> <p>6 comes into the marketplace, because 47 or</p> <p>7 48 states have automatic substitution of</p> <p>8 the generic for the brand, it's referring</p> <p>9 to the rate of conversion from the brand</p> <p>10 product to generic product. So the brand</p> <p>11 product declines. The generic product,</p> <p>12 you know, takes some of that pie, as we</p> <p>13 talked about earlier. But the pie</p> <p>14 remains the same.</p> <p>15 Q. Okay. And that rate at</p> <p>16 which the pie changes could be very</p> <p>17 quick, could be a little slower, right?</p> <p>18 A. Normally on opioids is</p> <p>19 slower.</p> <p>20 Q. And why is that?</p> <p>21 A. You know, the anecdotal</p> <p>22 evidence was that some patients want to</p> <p>23 remain on the -- on the brand because</p> <p>24 they know it works. They are -- they</p>

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<p>1 have pain is a fear factor, that if I go 2 to generic it won't work as well and then 3 I'm going to be in pain and I have to go 4 through -- I have to get the physician to 5 write a new script for the generic. And 6 then, you know, it becomes more -- well, 7 some people used to call it the hassle 8 factor. 9 You know, so the generic -- 10 like on Prozac, the conversion rate from 11 the brand Prozac to the generic 12 fluoxetine? Very fast. 13 Q. Okay. 14 A. And on MS Contin and other 15 opioids, it was a slower decline. 16 Eventually it erodes. But the rate of 17 erosion can be slower for opioids than 18 for non-opioids. 19 Q. Okay. And so if I 20 understand this correctly, Endo at least 21 initially was presenting to DEA Prozac as 22 a model of a conversion rate that might 23 apply to generic OxyContin, that's what 24 this e-mail is indicating, right?</p>	<p>1 You don't just get quota. 2 As I said earlier, you don't 3 walk into the FDA and say, oh, by 4 the way, I'm launching a -- you 5 know, an opioid product -- or any 6 controlled drug for that matter. 7 Because they -- DEA regulates -- 8 actually they regulate all 9 pharmaceuticals, but quotas are 10 established with control drugs. 11 So whether it's an opioid or 12 another control drug, you have to 13 get quota from the FDA in order to 14 manufacture the product. If you 15 exceed that quota in any calendar 16 year, okay you're done, unless you 17 can show that you gained business 18 from your competition. They lost 19 the business, you gained the 20 business, they'll give you more 21 quota. But reluctantly. And 22 normally not as much as you want. 23 BY MS. SCULLION: 24 Q. Okay. And so in -- in</p>
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<p>1 A. It was showing them -- it 2 was implying that that could be the case, 3 yes. 4 Q. Right. And so that would 5 then be, as you said, a fairly rapid 6 conversion rate, correct? 7 A. Right. So the brand would 8 go away and be replaced by the generic. 9 Q. Right. And if it was a 10 rapid conversion rate, that -- that would 11 mean that the anticipated volume of sales 12 for the generic version would be higher 13 than if there were a slower conversion 14 rate? 15 A. Yes. 16 Q. Okay. And -- okay. 17 And I think, as you said 18 earlier, if the anticipated demand for an 19 opioid were -- the anticipated demand 20 impacts the -- the DEA quota. 21 MS. VANNI: Object to form. 22 THE WITNESS: In order to 23 get quota you have to demonstrate 24 to the DEA that you have business.</p>	<p>1 discussing the -- the quota for generic 2 oxycodone ER for Endo, DEA was 3 questioning whether, in fact, the model 4 of a Prozac rapid conversion was maybe 5 overestimating the amount of demand you 6 might need, right? 7 MS. VANNI: Object to form. 8 THE WITNESS: They were -- 9 yeah, they -- they had looked at, 10 I think, at an MS Contin 11 conversion rate. It was -- it was 12 shorter, but the technology -- the 13 technology today is light years 14 what it was then. And that was 15 light years from what it was when 16 Oxy -- when MS ER was launched, MS 17 Contin. The technology was 18 increasing all the time to convert 19 the brand to generic, so yes. 20 BY MS. SCULLION: 21 Q. Okay. Understand. But 22 that's -- that's what DEA was saying, was 23 we're not sure that it will convert as 24 quickly as Prozac. And -- and then you</p>

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<p style="text-align: right;">Page 274</p> <p>1 had a discussion, correct?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. Okay.</p> <p>6 MS. SCULLION: Do we have</p> <p>7 Tab 54? Thank you.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q. And you were part of those</p> <p>10 discussions with the DEA, correct, not</p> <p>11 the teleconference, but the subsequent</p> <p>12 discussion?</p> <p>13 A. I was at the -- I was at the</p> <p>14 meeting with the DEA, yes.</p> <p>15 Q. Okay. Let me hand you --</p> <p>16 are you okay?</p> <p>17 A. Yeah, I'm fine.</p> <p>18 (Document marked for</p> <p>19 identification as Exhibit</p> <p>20 Endo-Stevenson-14.)</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. Let me hand you what's been</p> <p>23 marked as Exhibit 14.</p> <p>24 A. Having bifocals are not --</p>	<p style="text-align: right;">Page 276</p> <p>1 Pharmaceuticals' meeting with Drug</p> <p>2 Enforcement Administration, September 30,</p> <p>3 2003, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And then the next page, the</p> <p>6 meeting overview?</p> <p>7 A. Yes.</p> <p>8 Q. As you indicated, it lists</p> <p>9 yourself as well as Mr. Carbery,</p> <p>10 Miss Connell, Mr. Barto, and Miss Tolen</p> <p>11 in the meeting overview, correct?</p> <p>12 A. Correct.</p> <p>13 Q. To the best of your</p> <p>14 recollection they all attended, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And then the next</p> <p>17 page of the presentation begins with</p> <p>18 slides. It looks like it indicated that</p> <p>19 you would present with respect to the</p> <p>20 EN3218 marketing plan; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And the first slide,</p> <p>23 background generics versus brand. This</p> <p>24 generally talks about the concept of --</p>
<p style="text-align: right;">Page 275</p> <p>1 they're not everything that they're</p> <p>2 cracked up to be.</p> <p>3 Q. I have tried them, they did</p> <p>4 not work for me.</p> <p>5 So Exhibit 14 is</p> <p>6 Bates-stamped ENDO-OPIOID_MDL-03005612.</p> <p>7 And, Mr. Stevenson, do you</p> <p>8 see that Exhibit 14 starts with an e-mail</p> <p>9 from Sue Tolen to Dan Carbery, yourself,</p> <p>10 Bob Barto, and Jill Connell?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And the subject</p> <p>13 matter here is final DEA presentation,</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And Miss Tolen indicates</p> <p>17 that she's passing on to the group the</p> <p>18 final DEA presentation incorporating</p> <p>19 corrections, correct?</p> <p>20 A. Yes.</p> <p>21 Q. All right. So then let's</p> <p>22 turn to the document itself, which is</p> <p>23 another PowerPoint presentation. You see</p> <p>24 the title page says it's Endo</p>	<p style="text-align: right;">Page 277</p> <p>1 of AB-rating that we discussed earlier,</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And going to the</p> <p>5 next slide. Again, discusses the concept</p> <p>6 you talked about before about</p> <p>7 substitution of an AB-rated product for</p> <p>8 the brand, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And then the next -- the</p> <p>11 second bullet point says, "Endo customers</p> <p>12 for generics are retailers and</p> <p>13 wholesalers and not physicians," correct?</p> <p>14 A. Yes, yes.</p> <p>15 Q. Okay. And that's the</p> <p>16 concept we talked about earlier, right,</p> <p>17 that the generic does not get marketed to</p> <p>18 physicians, but there is some sales</p> <p>19 effort directed by the national account</p> <p>20 executives to the retailers and</p> <p>21 wholesalers, correct?</p> <p>22 MS. VANNI: Object to form.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MS. SCULLION:</p>

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<p>1 Q. All right. Okay. Going to 2 Page 6 of the presentation which 3 discusses generic conversion of brands. 4 This is discussing the concept again of 5 the pie that was created by the brand, 6 then being converted over time in part to 7 generic? 8 A. Yes. 9 Q. Okay. And if you'll go to 10 the third bullet point down which 11 discusses recent ABA -- AB, sorry, 12 AB-rated generic conversion of equivalent 13 brand approaching 90 percent within 14 30 days, correct? 15 A. Yes. 16 Q. And you discuss the Prozac 17 example. And one of the things that you 18 note here is "market efficiency over" -- 19 "overcame expected brand loyalty." Did I 20 read that correctly? 21 A. Yes. 22 Q. What did you mean there by 23 brand loyalty? 24 A. I launched generic name or</p>	<p>1 product. 2 And there was a concern that 3 if you -- if the market converts 4 the way we think it would convert, 5 which would be closer to the 6 Prozac model because of, even 7 then, more advanced technology, if 8 the DEA didn't give enough quota, 9 that we wouldn't have enough 10 product -- we would run out of 11 product, and now we would have 12 customer obligations that we 13 couldn't fulfill. We'd have to go 14 through the quota process with the 15 DEA, which is not something that 16 happens overnight. 17 So we were showing them an 18 example of how generics can 19 convert -- 20 BY MS. SCULLION: 21 Q. Right. 22 A. And how quickly they can 23 convert so they would be aware of that. 24 Q. And do you recall, was the</p>
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<p>1 the generic name fluoxetine for another 2 company. And at the time, we were 3 exclusive on the 10-milligram capsules, 4 and at the time there was a lot of buzz 5 in the industry that Prozac would 6 remain -- the patients would remain more 7 loyal to the brand Prozac than -- than 8 have -- than take a generic. And that's 9 proved not to be the case. 10 Q. Okay. And you were 11 presenting your viewpoint to the DEA that 12 a Prozac model was more applicable for, 13 in your view, for generic oxycodone than, 14 as you said, the older MS Contin 15 conversion model, right? 16 MS. VANNI: Object to form. 17 THE WITNESS: We were 18 presenting the Prozac model as a 19 basis for -- my recollection is 20 for our quota request that we 21 would not run out of quota in 22 order to convert -- as I said, 23 without the quota, you can't sell 24 the product. You run out of</p>	<p>1 DEA persuaded by your presentation that 2 the -- a faster model of generic 3 conversion should be used to support the 4 quota for generic oxycodone? 5 MS. VANNI: Object to form. 6 THE WITNESS: I don't know 7 how you define persuaded. I would 8 say that -- I would say that we 9 received adequate quota to meet 10 our share -- our share attainment 11 goal. 12 BY MS. SCULLION: 13 Q. And do you -- was that 14 adequate quota based on something more 15 like the Prozac conversion rate or the MS 16 Contin conversion rate? 17 A. You know, I don't recall. 18 Basically, we went down there. We had a 19 meeting with the FDA. It went into 20 whatever deliberations they engaged in. 21 They come back and tell you here it is. 22 Here's your answer. 23 Q. Okay. 24 A. And that's what I remember.</p>



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<p>1 Q. You said -- you said the 2 FDA. Do you mean the DEA? 3 A. I'm sorry, the DEA. I 4 apologize. 5 Q. Okay. 6 A. DEA. 7 Q. That's okay. 8 A. DEA. 9 Q. That's all right. I 10 understood. I just wanted to be sure 11 that I understood you correctly. 12 A. And thank you for correcting 13 me. 14 Q. Sure. Sure. Now, the next 15 part of the presentation concerns the 16 Endo risk management plan. It's on Page 17 8. Do you see that? 18 A. Yes. 19 Q. And that was presented by 20 Mr. Barto, correct? 21 A. Yes. We 22 compartmentalized -- we compartmentalized 23 the presentation based on our areas of 24 expertise. And that's the way it was</p>	<p>1 what was required to meet the FDA 2 and DEA -- any regulatory 3 criteria, keep the commercial -- 4 have a firewall so the commercial 5 people couldn't -- not that I 6 would have, but couldn't influence 7 any kind of risk management plan. 8 It was designed to be based on the 9 science of the product and what 10 was required by the regulatory 11 authorities, whether it be at FDA 12 or DEA, whoever the regulatory 13 authority was. In this case it 14 was the DEA we were meeting with. 15 BY MS. SCULLION: 16 Q. Did you ever have the chance 17 to review the risk management plan for 18 oxycodone? 19 A. I'm sure I got a copy of it. 20 MS. SCULLION: Do we have 21 that, the risk management, the 22 clean one? 23 Sorry, one second. 24 (Document marked for</p>
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<p>1 organized. 2 Q. Okay. As VP for generics 3 with oversight of Endo's generic 4 oxycodone ER product, were you at least 5 familiar with the basic contours of 6 Endo's risk management plan for that 7 product? 8 A. I don't know how you mean -- 9 excuse me, how you mean contours? 10 MS. VANNI: Objection. 11 THE WITNESS: Basically what 12 happened in Endo, if I remember 13 correctly, there was, like, a 14 scientific kind of committee that 15 was setup by management. In 16 addition to doing, you know, the 17 brand marketing stuff and all the 18 things that we had discussed 19 earlier, they would have been 20 involved in the risk management 21 thing. 22 So it was compartmental. 23 Again, take the commercial people 24 out of it. It was designed to be</p>	<p>1 identification as Exhibit 2 Endo-Stevenson-15.) 3 BY MS. SCULLION: 4 Q. Mr. Stevenson, let me hand 5 you what's been marked as Exhibit 15. 6 A. Thank you. 7 Q. Again, Exhibit 15, we've 8 started with a metadata page so you can 9 see at the top again in the document 10 identification box under custodian, you 11 are listed there. 12 A. Oh, yeah, I'm sure it was in 13 my file. 14 Q. Okay. And I'll acknowledge 15 at the bottom of the page, I think 16 there's some -- maybe some -- 17 MS. VANNI: Wite-Out. 18 BY MS. SCULLION: 19 Q. -- Wite-Out. It is just a 20 remnant of, I think, Kseniya having 21 e-mailed the information, which we're 22 happy to show you. And the body of the 23 document itself, which begins at 24 ENDO-OPIOID_MDL-04137306.</p>

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<p style="text-align: right;">Page 286</p> <p>1 Do you see this is a risk</p> <p>2 management plan for opioid analgesics</p> <p>3 focused on oxycodone ER?</p> <p>4 A. Yes.</p> <p>5 Q. And it's a red-line. It's a</p> <p>6 marked-up, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. But at least based on</p> <p>9 the metadata, you would have at least</p> <p>10 seen this markup, right?</p> <p>11 A. Yeah.</p> <p>12 MS. VANNI: Object to form.</p> <p>13 THE WITNESS: I already</p> <p>14 testified. I already testified to</p> <p>15 that.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. Yep. I just want to be able</p> <p>18 to show it to you there.</p> <p>19 MS. SCULLION: And then the</p> <p>20 actual clean version? It's a</p> <p>21 little easier to read. All right.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Endo-Stevenson-16.)</p>	<p style="text-align: right;">Page 288</p> <p>1 there is product labeling, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And the second is,</p> <p>4 "Strong educational initiatives in place</p> <p>5 and planned regarding the proper</p> <p>6 prescribing and clinical use of opioid</p> <p>7 analgesics as a class (though not</p> <p>8 specific to oxycodone ER generic. These</p> <p>9 educational initiatives can be considered</p> <p>10 a component of the RMP since they will</p> <p>11 have a direct impact on appropriate use</p> <p>12 of the drug)."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And is that consistent with</p> <p>16 your understanding that the -- Endo had</p> <p>17 in place and was putting in place general</p> <p>18 educational initiatives concerning opioid</p> <p>19 analgesics as a class?</p> <p>20 A. Yes. Many of them are</p> <p>21 outlined in the document, in the DEA</p> <p>22 presentation that we just covered a</p> <p>23 moment ago.</p> <p>24 Q. Right.</p>
<p style="text-align: right;">Page 287</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Let me hand you what's been</p> <p>3 marked as Exhibit 16. Exhibit 16 is</p> <p>4 Bates-stamped ENDO-OPIOID_MDL-01500831,</p> <p>5 and this is a clean copy --</p> <p>6 non-marked-up -- a clean copy of the risk</p> <p>7 management plan for opioid analgesics,</p> <p>8 focused on oxycodone ER.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If you'll go to</p> <p>12 page -- again, we've marked these in the</p> <p>13 upper right-hand corner with E0778</p> <p>14 number. If you go to Page E0778.5 in the</p> <p>15 upper right-hand corner.</p> <p>16 A. Yes.</p> <p>17 Q. Looking at the first full</p> <p>18 paragraph there. It says, "Thus, Endo's</p> <p>19 RMP is tailored to fit the needs of a</p> <p>20 generic drug that will protect against</p> <p>21 improper use, abuse, and diversion."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And the first element listed</p>	<p style="text-align: right;">Page 289</p> <p>1 A. Pages and pages of them.</p> <p>2 Q. Yep. You are ahead of me</p> <p>3 there. Is it also correct -- is it your</p> <p>4 understanding that those educational</p> <p>5 initiatives concern the proper</p> <p>6 prescribing and clinical use of opioid</p> <p>7 analgesics?</p> <p>8 A. Proper prescribing?</p> <p>9 Q. I'm just reading what's</p> <p>10 written here in the risk management plan.</p> <p>11 A. Yes, yes, yes.</p> <p>12 Q. Okay. The proper</p> <p>13 prescribing --</p> <p>14 A. Yes.</p> <p>15 Q. -- and clinical use of</p> <p>16 opioid analgesics?</p> <p>17 A. Yes, yeah.</p> <p>18 Q. That's what these</p> <p>19 educational initiatives were about,</p> <p>20 right?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: Yes. In --</p> <p>23 yes.</p> <p>24 BY MS. SCULLION:</p>

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<p style="text-align: right;">Page 290</p> <p>1 Q. And as you indicated, the</p> <p>2 next couple pages then lay out these</p> <p>3 educational initiatives. Let's go to</p> <p>4 Page E778.6.</p> <p>5 A. Okay.</p> <p>6 Q. And I'm looking at the</p> <p>7 Section 3.1.1, "Patient and family</p> <p>8 brochure, 'Understanding your pain:</p> <p>9 Taking oral opioid analgesics.'"</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. This describes a brochure</p> <p>13 developed by Russell Portenoy, Chris</p> <p>14 Pasero and Margo McCaffery.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know any of those</p> <p>18 individuals?</p> <p>19 A. No.</p> <p>20 Q. Okay. And it indicates that</p> <p>21 the brochure was developed by -- via an</p> <p>22 unrestricted educational grant; is that</p> <p>23 right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 292</p> <p>1 Control (NIPC)."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall the National</p> <p>5 Initiative on Pain Control?</p> <p>6 A. Endo had multiple programs.</p> <p>7 You know, I don't remember each one.</p> <p>8 Other people handled that, was in their</p> <p>9 area of expertise. It was scientifically</p> <p>10 driven. And the commercial people were</p> <p>11 out of it. So I -- you know, I don't</p> <p>12 recall each individual program they had.</p> <p>13 I know they had educational programs.</p> <p>14 Q. Okay. You've said a few</p> <p>15 times -- I think we actually began the</p> <p>16 deposition talking about this concept.</p> <p>17 When you say the commercial people were</p> <p>18 out of it --</p> <p>19 A. Excluded from -- excluded</p> <p>20 from discussions, because, as I testified</p> <p>21 earlier, in most cases, they want the</p> <p>22 experts in the field, in this case, this</p> <p>23 is scientific material, the people</p> <p>24 involved were on the side -- I think Endo</p>
<p style="text-align: right;">Page 291</p> <p>1 Q. Do you recall Ms. Kitlinski,</p> <p>2 Linda Kitlinski administering those</p> <p>3 grants for Endo when you were there?</p> <p>4 A. The name sounds familiar. I</p> <p>5 don't know. But I don't know what her --</p> <p>6 I can't recall what her exact role or</p> <p>7 title was.</p> <p>8 Q. Okay. And as indicated</p> <p>9 here, this was -- what's described is a</p> <p>10 brochure that was intended to be</p> <p>11 presented to patients, patient brochure,</p> <p>12 right?</p> <p>13 A. Yes, and pharmacist.</p> <p>14 Q. Okay. Correct. Was also</p> <p>15 presented to pharmacists -- it says</p> <p>16 pharmacists for their patients.</p> <p>17 A. Right. But it was</p> <p>18 physicians and pharmacists for their</p> <p>19 patients, yes.</p> <p>20 Q. If you'll go to Page E778.8?</p> <p>21 A. Okay.</p> <p>22 Q. I just want to draw your</p> <p>23 attention to Section 3.2.1. That's</p> <p>24 labeled, "National Initiative on Pain</p>	<p style="text-align: right;">Page 293</p> <p>1 had a scientific affairs committee of</p> <p>2 some kind. And most of the people on</p> <p>3 there, a lot of them were MDs. And that</p> <p>4 was their background. And that's who the</p> <p>5 executive management of the company</p> <p>6 wanted working on these. And they didn't</p> <p>7 want so-called commercial people to get</p> <p>8 involved with it.</p> <p>9 The commercial people could</p> <p>10 look at it. Perhaps offer their input.</p> <p>11 I had none. You know, these were written</p> <p>12 by the experts in this area, regulatory</p> <p>13 and pharmacovigilance, et cetera, and you</p> <p>14 know, this is what -- there was no reason</p> <p>15 for the commercial people to get</p> <p>16 involved.</p> <p>17 So that's the way it was set</p> <p>18 up.</p> <p>19 Q. Okay. As you say, the</p> <p>20 commercial people weren't to have any</p> <p>21 input into the substance of these</p> <p>22 initiatives, right?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: It wasn't --</p>

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<p style="text-align: right;">Page 294</p> <p>1 was -- it was designed to, here it 2 is kind of thing. Here is the 3 plan. 4 BY MS. SCULLION: 5 Q. Right. But the question 6 is -- and -- but the policy was that the 7 commercial people weren't supposed to 8 have any input into -- 9 A. No, no -- 10 Q. -- the educational 11 initiatives, right? 12 MS. VANNI: Let her finish 13 her question. 14 THE WITNESS: No, no input. 15 MS. SCULLION: Thank you. 16 BY MS. SCULLION: 17 Q. And just following through 18 on the national initiative on pain 19 control. It's described here as "a CME 20 accredited educational program solely 21 supported by Endo Pharmaceuticals." 22 Do you see that? The very 23 first sentence? 24 A. Yes.</p>	<p style="text-align: right;">Page 296</p> <p>1 Q. All right. But then while 2 the product was -- was out in the 3 marketplace, there was a reversal, right, 4 at the federal circuit? 5 A. We went on appeal. I don't 6 know what the vote was, two to one, three 7 to zero. But then Purdue did not give 8 up. They went and asked for an en banc 9 appellate court ruling for the entire 10 appeals court to rule and they -- the 11 appellate court did not overturn the 12 case. They remanded it back to the lower 13 court. 14 And my -- my recollection is 15 that they had a -- they -- if I remember 16 correctly, they wanted to find out -- the 17 lower court had to find out the state of 18 mind of the formulator or somebody at 19 Purdue at the time. And it became -- it 20 was pretty nebulous. So the decision was 21 made to enter into a settlement to 22 withdraw the product and all the generic 23 players, ourselves included, negotiated 24 an exit from the market with Purdue</p>
<p style="text-align: right;">Page 295</p> <p>1 Q. Okay. Let's put aside the 2 risk management plan for the moment. I 3 want to go back and now just talk about 4 generic oxycodone and Endo's plans around 5 that product. 6 We looked at the GAO report. 7 You don't recall seeing it, right? 8 A. Correct. 9 Q. Okay. But fair to say that 10 despite the GAO report and despite some 11 of the media reports that you generally 12 referenced that discussed problems 13 associated with OxyContin, that Endo did 14 go ahead and eventually launch its 15 generic oxycodone ER product, right? 16 MS. VANNI: Object to form. 17 THE WITNESS: We launched a 18 product that was approved by the 19 FDA. 20 BY MS. SCULLION: 21 Q. Right. And Endo launched 22 that product after it had won the patent 23 case initially on appeal, correct? 24 A. Correct.</p>	<p style="text-align: right;">Page 297</p> <p>1 Pharma. 2 Q. Let's take this -- going to 3 take it one step at a time. 4 MS. SCULLION: Can I have 5 Tab 47. 6 (Document marked for 7 identification as Exhibit 8 Endo-Stevenson-17.) 9 BY MS. SCULLION: 10 Q. So let me hand you what's 11 been marked as Exhibit 17. And 12 Exhibit 17 is a press release from Endo 13 dated February 6, 2006. And it's 14 entitled Endo Pharmaceuticals to continue 15 to market its bioequivalent version of 16 OxyContin, correct? 17 A. Yes. 18 Q. And this explains that as of 19 February 6, 2006, in the first line it 20 says, "Endo Pharmaceuticals today 21 announced that its wholly owned 22 subsidiary, Endo Pharmaceuticals, Inc., 23 will continue its commercial sales in its 24 bioequivalent version of OxyContin at</p>

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<p style="text-align: right;">Page 298</p> <p>1 this time."  2 Did I read that correctly?  3 A. Yes.  4 Q. And the paragraph then goes  5 to explain that Endo is continuing its  6 commercial sales of OxyContin -- sorry,  7 of its bioequivalent version of  8 OxyContin, even though -- look in the  9 last line of the paragraph -- the federal  10 circuit issued a new opinion on  11 February 1, 2006, as you said, that  12 remanded the case to the District Court  13 for further consideration, correct?  14 MS. VANNI: Object to form.  15 THE WITNESS: Yes.  16 BY MS. SCULLION:  17 Q. So fair to say that as of  18 February 6, 2006, Endo was now marketing  19 its generic version of OxyContin --  20 OxyContin at risk?  21 MS. VANNI: Object to form.  22 BY MS. SCULLION:  23 Q. Right?  24 A. That's not my understanding,</p>	<p style="text-align: right;">Page 300</p> <p>1 Court said you didn't infringe or  2 whatever the ruling was that was in your  3 favor, you were then able legally to  4 launch the product. The risk was you  5 could be overturned on appeal.  6 Q. Right.  7 A. This case was different. We  8 won on the lower court, we won on appeal,  9 and then this was remanded back.  10 So at the time, management  11 decided that we did not have to withdraw  12 the product. However, it was not stated  13 in the press release, I don't believe, I  14 haven't read it all, is that we had  15 entered into negotiations with Purdue  16 Pharma to have an orderly exit from the  17 market.  18 Q. Well, let's -- let's take it  19 one step at a time.  20 So as you said there was a  21 remand as of February 1, 2006, back to  22 the District Court. And if you go down  23 two more paragraphs, it says, "In the  24 event that there is a final</p>
<p style="text-align: right;">Page 299</p> <p>1 but I'm not a lawyer.  2 Q. Okay. Well, let's go --  3 have you ever heard someone talking about  4 launching a product, a generic product at  5 risk?  6 A. I'm sorry, could you restate  7 that?  8 Q. Sure. Have you ever heard  9 anyone talk about the concept of --  10 A. Yeah, I'm familiar with the  11 concept of launching at risk, yes.  12 Q. Not asking you for a legal  13 opinion. From your understanding as a  14 professional in the generic drug  15 industry, what does that mean, to launch  16 at risk?  17 A. Well, launching at risk,  18 this -- this was an unusual case that no  19 one -- I had never encountered anything  20 like this. Normally -- but to answer  21 your question, an at-risk launch means  22 that you launch the product with only the  23 District Court's opinion. So if the  24 District Court said -- if the District</p>	<p style="text-align: right;">Page 301</p> <p>1 non-appealable judgment that produced  2 patents that are valid and enforceable,  3 Endo could face substantial liability for  4 patent infringement and be obligated to  5 pay Purdue damages in an amount to be  6 determined by the District Court,"  7 correct?  8 A. Yes.  9 Q. Okay. So, these -- and this  10 press release, I'll submit to you, does  11 not actually discuss any ongoing  12 discussions at that point with Purdue.  13 So let me ask you this  14 question. So given the possibility as it  15 says of facing substantial liability, if,  16 on remand there were a judgment that  17 produced patents were valid and  18 enforceable, is it fair to say that at  19 this point Endo was continuing to market  20 and now marketing at risk?  21 MS. VANNI: Object to form.  22 THE WITNESS: You know, I'm  23 not a lawyer so I don't know how  24 it would be categorized.</p>

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<p style="text-align: right;">Page 302</p> <p>1 We were given -- my 2 recollection is, when this came 3 out, the feeling was we would, 4 what I was told at the highest 5 levels of the company is that we 6 could -- they were engaged in 7 discussions with Purdue Pharma. 8 If those discussions had not gone 9 well, would we have exited, I 10 don't know. That is a what-if, 11 it's speculation. 12 What I do know is that we 13 didn't have to -- the feeling was 14 there was a risk to the company by 15 pulling the market, the product 16 off the market right away. And 17 that wasn't desirable to do that. 18 At the same time we also knew we 19 had this issue to deal with. And 20 so, my recollection is that that 21 led to discussions with Purdue 22 Pharma that led to us being able 23 to continue to market the product 24 until December 31, 2006.</p>	<p style="text-align: right;">Page 304</p> <p>1 the litigation between Endo and Purdue 2 concerning the patents, right? 3 A. Yes. 4 Q. Now, this 10-K states, 5 second sentence from the bottom of that 6 same paragraph, "On August 28, 2006, we 7 executed a settlement agreement with 8 Purdue pursuant to which we continued to 9 selling" -- sorry. "Continued selling 10 our oxycodone extended-release products 11 until December 31, 2006." 12 Did I read that correctly? 13 A. Yes. 14 Q. So, now -- and, again, this 15 is the 10-K filed with -- with the SEC, 16 right? 17 A. Yes. 18 Q. One would expect Endo to be 19 completely accurate in its discussion of 20 when it actually entered into a 21 settlement agreement with Purdue, right? 22 A. Yeah. I'm -- I can tell you 23 that it's on or about that time that's 24 when it -- I remember it was during NACDS</p>
<p style="text-align: right;">Page 303</p> <p>1 MS. SCULLION: Okay. Let's 2 go to Tab 63. 3 (Document marked for 4 identification as Exhibit 5 Endo-Stevenson-18.) 6 BY MS. SCULLION: 7 Q. Let me hand you what's been 8 marked as Exhibit 18. 9 Exhibit 18 is a copy of Endo 10 Pharmaceuticals 10-K for the fiscal year 11 ended December 31, 2006. 12 MS. SCULLION: 18, right? 13 BY MS. SCULLION: 14 Q. And, Mr. Stevenson, let me 15 take you to Page 15 of the 10-K. 16 A. Okay. 17 Q. And under the heading, 18 Generic Products, the second paragraph 19 again discusses the -- you're not on the 20 page, hold on. I'll wait till you are 21 there. 22 A. Okay. I'm there. 23 Q. Okay. Second paragraph 24 under generics product discusses again</p>	<p style="text-align: right;">Page 305</p> <p>1 when the settlement was done. So yes, 2 mm-hmm. 3 Q. Okay. But we saw that, 4 the -- earlier, the press release that 5 was Exhibit 17 was from February of 2006, 6 right? 7 A. Yes. 8 Q. So fair to say that between 9 February 2006 and August 28, 2006, Endo 10 was, in fact, selling this oxycodone 11 extended-release product at risk, because 12 it didn't yet have a settlement agreement 13 signed, right? 14 MS. VANNI: Object to form. 15 THE WITNESS: Yeah, I can't 16 testify they were selling at risk. 17 Because my understanding was 18 that -- that there was still a 19 long way to go in the legal 20 proceedings. 21 So they had already 22 initiated I believe -- I don't 23 know when they started discussions 24 with Purdue. I would think it</p>

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<p>1 started pretty quickly. And, you 2 know, those discussions took a 3 long time to come to fruition. 4 There were certain things we 5 wanted and -- in that. And so it 6 didn't happen overnight. 7 BY MS. SCULLION: 8 Q. Right. Fair to say, though, 9 until the settlement agreement is signed, 10 you don't know that you have a deal 11 right? 12 MS. VANNI: Object to form. 13 THE WITNESS: You don't have 14 a deal until it's signed, no. 15 BY MS. SCULLION: 16 Q. Right. And according to the 17 10-K, it wasn't signed until August 28th, 18 right? 19 A. Correct. 20 Q. Okay. And again, as you 21 say, then Endo discontinued sale as of 22 December 31st, 2006, right? 23 A. Correct. 24 Q. And that was because of the</p>	<p>1 media relations firm to help it get out 2 ahead of any potential issues with 3 respect to its generic version of 4 OxyContin, right? 5 MS. VANNI: Object to form. 6 THE WITNESS: They may have. 7 BY MS. SCULLION: 8 Q. Okay. Well, let's take a 9 look at that. 10 MS. SCULLION: Can I have 11 Tab 66, please. Let's not use 12 that one then. 13 Let me have tab 68, please. 14 (Document marked for 15 identification as Exhibit 16 Endo-Stevenson-19.) 17 BY MS. SCULLION: 18 Q. I'll hand you what's been 19 marked as Exhibit 19. 20 MS. VANNI: Thank you. 21 BY MS. SCULLION: 22 Q. And Exhibit 19, again, we 23 have the metadata on the front to show 24 that this was coming from your custodial</p>
Page 307	Page 309
<p>1 settlement agreement, right? 2 A. Correct. 3 Q. That wasn't for any safety 4 reasons, right? 5 MS. VANNI: Object to form. 6 THE WITNESS: Correct. 7 BY MS. SCULLION: 8 Q. Endo didn't decide this drug 9 is too risky, we are taking it off the 10 market, right? 11 MS. VANNI: Object to form. 12 THE WITNESS: Correct. 13 BY MS. SCULLION: 14 Q. Okay. As we discussed 15 earlier, there was a fair amount of media 16 attention with respect to, to use your 17 phrase, abuse of the use of OxyContin in 18 the early 2000s, right? 19 MS. VANNI: Object to form. 20 THE WITNESS: Yes, you know, 21 I assume it was early 2000s. It 22 was a long time ago. 23 BY MS. SCULLION: 24 Q. Okay. And Endo engaged a</p>	<p>1 file. And then if you turn to the first 2 page of the exhibit, you see it's a 3 presentation by Cohn &amp; Wolfe Healthcare 4 dated May 14th, 2004, the subject of 5 which is corporate reputation management? 6 A. Yes. 7 Q. Do you recall Cohn &amp; Wolfe 8 Healthcare being engaged by Endo to 9 assist it with public relation issues? 10 A. No, I do not recall. 11 Q. Okay. You have no reason to 12 doubt that Cohn &amp; Wolfe Healthcare was in 13 fact engaged, though, right? 14 A. Well, yeah, I guess my point 15 is I, the generic side of the business, 16 did not hire them. 17 Q. Okay. This concerns -- if 18 we go to the next page, the agenda 19 states, "Preserving and enhancing Endo's 20 reputation, 3218 launch and beyond." 21 Do you see that? 22 A. Yes. 23 Q. 3218 launch, that was the 24 launch of generic -- the generic</p>

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<p>1 oxycodone ER product, right?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So this did, in fact,</p> <p>4 concerned you to the extent that it</p> <p>5 concerned that product, right?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: It concerned a</p> <p>8 product. My only testimony is I</p> <p>9 did not hire them.</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. Got it. But again, this</p> <p>12 document comes from your file. Fair to</p> <p>13 say that you would have attended this</p> <p>14 presentation?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: Could be.</p> <p>17 Don't remember it. But could be.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Okay. All right. If you go</p> <p>20 to, this is a little bit tough. There is</p> <p>21 no page numbers. Turn the page, the</p> <p>22 fourth -- I apologize. I think it's</p> <p>23 fourth page. It says, "Endo, rough seas</p> <p>24 ahead"?</p>	<p>1 Q. Okay. We'll see if we can</p> <p>2 find a document to refresh your</p> <p>3 recollection on that. But in the</p> <p>4 meantime, the next bullet point discusses</p> <p>5 Purdue litigation and disruptive guerilla</p> <p>6 tactics. And it says, "Talk to George to</p> <p>7 get examples of guerilla tactics."</p> <p>8 Is that you? Talk to you</p> <p>9 about the guerilla tactics?</p> <p>10 A. Yes.</p> <p>11 Q. What were the guerilla</p> <p>12 tactics?</p> <p>13 A. The concern was that -- if I</p> <p>14 remember correctly, in -- you know, in</p> <p>15 general terms, that Purdue would threaten</p> <p>16 customers for buying a generic. More or</p> <p>17 less that's what it was.</p> <p>18 Q. And then the next bullet</p> <p>19 point says, "Anti-abuse policy and</p> <p>20 programs gain attention."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And there's a reference to</p> <p>24 national support for state anti-abuse</p>
Page 311	Page 313
<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 MS. SCULLION: Let me make</p> <p>4 sure trial tech will be able to</p> <p>5 find it. Thank you. Sorry, I</p> <p>6 don't have any page numbers.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q. So "Endo, rough seas ahead,"</p> <p>9 and the first thing listed are some</p> <p>10 upcoming milestones, first of which is</p> <p>11 the 3218 launch. That's your generic</p> <p>12 oxycodone, right?</p> <p>13 A. Yes.</p> <p>14 Q. Then the fentanyl patch</p> <p>15 launch, was that a generic fentanyl patch</p> <p>16 that Endo was considering at that point?</p> <p>17 A. We were considering it, but</p> <p>18 we dropped it.</p> <p>19 Q. Okay. And then 3202 launch,</p> <p>20 that's a reference to the Opana and</p> <p>21 Opana -- I'm sorry, Opana IR and Opana</p> <p>22 ER, right?</p> <p>23 A. I'm not familiar with what</p> <p>24 3202 is. Don't know what that is.</p>	<p>1 programs. The first bullet under that</p> <p>2 says, "AG Pappert warns of OxyContin</p> <p>3 generic in our backyard."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And that's a reference to</p> <p>7 Pennsylvania State Attorney General at</p> <p>8 the time, Jerry Pappert, right?</p> <p>9 A. If you say so.</p> <p>10 Q. I did check and he was the</p> <p>11 attorney general at the time.</p> <p>12 A. It's always good to learn</p> <p>13 something new every day.</p> <p>14 Q. I say that.</p> <p>15 Do you recall Pennsylvania</p> <p>16 Attorney General warning about concerns</p> <p>17 of oxy -- generic OxyContin?</p> <p>18 A. No.</p> <p>19 Q. All right. And then two</p> <p>20 more bullet points down, again references</p> <p>21 a GAO report that raises interest in and</p> <p>22 scrutiny of risk management plan</p> <p>23 implementation.</p> <p>24 Do you see that?</p>

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<p>1 A. Yes. 2 (Document marked for 3 identification as Exhibit 4 Endo-Stevenson-20.) 5 BY MS. SCULLION: 6 Q. Let me quickly show you 7 Exhibit 20, only to help you -- to help 8 you understand the 3202. Exhibit 20 is 9 ENDO-OPIOID_MDL-01709708. And this is an 10 e-mail from Mr. Barto to a variety of 11 folks. And you are cc'd. 12 Do you see that? 13 A. Yes. It looks to me like 14 most of the people on this list were vice 15 presidents, not all perhaps, but yeah. 16 Q. And Mr. Barto writes, "The 17 attached submission regarding elements of 18 the EN3202/03 risk management plan was 19 made to the FDA yesterday." 20 Do you see that? 21 A. Yes. 22 Q. And then if you turn to the 23 next page, you can see in the subject 24 matter line of the letter, Mr. Barto is</p>	<p>1 this is the generic oxycodone product. 2 The first element -- sorry, the first 3 item listed in the situations is, "Opioid 4 category synonymous with abuse." 5 Do you see that? 6 A. Yes. 7 Q. And that was a concern 8 Endo -- that was something that Endo was 9 concerned about at the time, right, there 10 was an opioid category that was kind of 11 synonymous with abuse? 12 MS. VANNI: Object to form. 13 THE WITNESS: Well, I can't 14 testify to that. This was written 15 by some marketing firm. And that 16 was what they wrote down on a 17 piece of paper. That doesn't mean 18 that Endo agreed with it. 19 BY MS. SCULLION: 20 Q. Were you concerned that the 21 opioid category was becoming synonymous 22 with abuse? 23 A. To be honest, no, because I 24 saw it as helping people relieve their</p>
Page 315	Page 317
<p>1 referencing, it says oxymorphone 2 extended-release tablets and oxymorphone 3 immediate release tablets. 4 Do you see that? 5 A. Yes. 6 Q. Okay. Showing you that, 7 just so you have some reference for what 8 EN3202 and 03 is, as referring to the 9 oxymorphone ER and IR? 10 A. Okay. 11 Q. Okay. 12 A. That's probably why I didn't 13 recognize it, because it's a brand 14 product. 15 Q. Understood. 16 Okay. So going back to 17 Exhibit 19. There is a page a couple 18 pages back that's headed "Situation for 19 Launching 3218" at the top. 20 A. Okay. 21 Q. Do you see that? 22 A. Yeah. 23 Q. And what's identified here 24 is a situation for launching. Again,</p>	<p>1 pain, pain management. 2 Q. Did you think that concerns 3 about abuse of opioids at that time were 4 overstated? 5 MS. VANNI: Object to form. 6 THE WITNESS: I didn't think 7 they were overstated or 8 understated. 9 BY MS. SCULLION: 10 Q. Okay. All right. Let's go 11 to the case study section, which begins 12 on the next page. If you can turn back, 13 the first case study concerns Monsanto. 14 The next says Purdue Pharma. The third 15 case study here is Endo. 16 Do you have that one? 17 A. Yes. 18 Q. All right. And what's 19 described here is -- in the first bullet 20 point is, "AG Pappert issues press 21 release on April 22nd, warning of new 22 wave of abuse from generic OxyContin." 23 Did I read that correctly? 24 A. Yes.</p>

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<p style="text-align: right;">Page 318</p> <p>1 Q. And then it indicates that, 2 "An AP article was released at 3:40 3 focused on concerns of the Attorney 4 General," correct? 5 A. Yes, that's what it says. 6 Q. All right. Then it 7 indicates that at 3:45, five minutes 8 later, Endo coordinates an interview with 9 Dr. Galer and AP reporter. 10 Do you see that? 11 A. Yes. 12 Q. And Dr. Galer, that was 13 Dr. Brad Galer, right? 14 A. Yes. 15 Q. And who was he at Endo at 16 the time? 17 A. I don't remember his exact 18 title, but he was involved in the science 19 side of the business. 20 Q. Okay. The science side of 21 the business is -- five minutes after 22 release of an article that's discussing 23 concerns from the Attorney General, State 24 of Pennsylvania, the science side of Endo</p>	<p style="text-align: right;">Page 320</p> <p>1 Tab 77. 2 BY MS. SCULLION: 3 Q. Now, you are aware that for 4 some people, OxyContin was not a godsend, 5 right? 6 MS. VANNI: Object to form. 7 THE WITNESS: I'm aware of 8 what I testified to earlier, that 9 there was abuse -- some of -- 10 there was abuse of OxyContin by 11 some. But that they were in the 12 overwhelmingly vast minority 13 compared to the number of people 14 that took, in this case OxyContin 15 to manage their pain. 16 BY MS. SCULLION: 17 Q. You are aware, are you not, 18 that for some people who took OxyContin 19 under a physician's direction, not 20 abusing it, but under direction, that 21 they described OxyContin as hell. You 22 are aware of that, right? 23 MS. VANNI: Object to form 24 and foundation.</p>
<p style="text-align: right;">Page 319</p> <p>1 is on the phone with an AP reporter. 2 That's what this is indicating, right? 3 MS. VANNI: Object to form. 4 THE WITNESS: That's what it 5 indicates. I don't know if that 6 happened. I have no way of 7 knowing. 8 BY MS. SCULLION: 9 Q. Then we see, at 4:38, so 10 less than an hour after the first AP 11 article, a second AP article now is 12 released. And it's described as having 13 a, quote, "balanced messages." 14 Do you see that, closed 15 quote? 16 A. Yes. 17 Q. And the first balanced 18 message indicated for the second AP 19 article is, "OxyContin has been a godsend 20 to patients suffering from severe, 21 long-lasting pain." 22 Did I read that correctly? 23 A. Yes. 24 MS. SCULLION: Can I have</p>	<p style="text-align: right;">Page 321</p> <p>1 THE WITNESS: No, I'm not 2 aware of that. 3 BY MS. SCULLION: 4 Q. Okay. 5 (Document marked for 6 identification as Exhibit 7 Endo-Stevenson-21.) 8 BY MS. SCULLION: 9 Q. Let me show you Exhibit 21. 10 And Exhibit 21 is a copy of 11 a May 5, 2016 article from the LA Times. 12 And it's titled "You want a description 13 of hell: OxyContin's 12-hour problem." 14 Do you see that? 15 A. Yes. 16 Q. Did you read this article 17 when it came out? 18 A. No. It was -- in May, May 19 5, 2016, I was in my noncompete phase. 20 Q. Okay. Your -- I won't ask 21 you to read it now since you haven't read 22 it before. But fair to say that, at 23 least according to this article, certain 24 patients described OxyContin as -- as</p>



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<p style="text-align: right;">Page 322</p> <p>1 hell and not a godsend, right?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: Well, yeah, I</p> <p>4 just -- for the record, I think</p> <p>5 it's pure speculation to know</p> <p>6 whether they abused a product or</p> <p>7 didn't abuse a product, whether</p> <p>8 they took an opioid like</p> <p>9 OxyContin, drank alcohol, or -- or</p> <p>10 did other nefarious things that</p> <p>11 were contra to the indication on</p> <p>12 the label.</p> <p>13 So the title could be</p> <p>14 misleading. I don't know what</p> <p>15 caused their hell, the 12 hours of</p> <p>16 hell, just for the record.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. Now, going back to</p> <p>19 Exhibit 19.</p> <p>20 A. 19.</p> <p>21 Q. Yep.</p> <p>22 A. Be good at numbers.</p> <p>23 Q. I'm getting better.</p> <p>24 Same page we were just on,</p>	<p style="text-align: right;">Page 324</p> <p>1 material to doctors. That I don't</p> <p>2 recall.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. Did you ever see any</p> <p>5 informational materials that went out</p> <p>6 directly to doctors concerning --</p> <p>7 A. I don't recall --</p> <p>8 Q. Sorry.</p> <p>9 -- concerning generic</p> <p>10 oxycodone ER?</p> <p>11 A. I don't recall any.</p> <p>12 Q. Do you recall seeing any</p> <p>13 "Dear Doctor" letters concerning generic</p> <p>14 oxycodone ER that told the doctors</p> <p>15 that -- that that medication should not</p> <p>16 be overprescribed?</p> <p>17 A. I don't recall any.</p> <p>18 Q. Okay. And turn the page --</p> <p>19 A. But I -- can I -- I do want</p> <p>20 to stipulate though, it says --</p> <p>21 Q. I'm so sorry, I apologize,</p> <p>22 Mr. Stevenson. Your counsel will have</p> <p>23 the opportunity to ask you questions, and</p> <p>24 I'm certain that she will. So I'm trying</p>
<p style="text-align: right;">Page 323</p> <p>1 which discusses the AP article that came</p> <p>2 out, second AP article after Endo</p> <p>3 coordinated an interview between</p> <p>4 Dr. Galer and the AP reporter.</p> <p>5 The third bullet point with</p> <p>6 respect to balanced messages in that</p> <p>7 article says, "The company, Endo, plans</p> <p>8 to monitor for prescription data for</p> <p>9 signs of abuse and tell doctors that the</p> <p>10 medication should not be overprescribed."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Now, I think you've</p> <p>14 mentioned and testified to rather a</p> <p>15 number of times, with respect to generic</p> <p>16 oxycodone ER, Endo wasn't going to be</p> <p>17 telling doctors anything, right? Endo is</p> <p>18 not directly communicating with</p> <p>19 physicians concerning that generic</p> <p>20 product, right?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: They were not</p> <p>23 promoting it. I do not know if</p> <p>24 they sent out informational</p>	<p style="text-align: right;">Page 325</p> <p>1 to move on to the next part of this</p> <p>2 document. Sorry.</p> <p>3 The recommendations section</p> <p>4 on -- starts with communications</p> <p>5 imperatives. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And do you see that one of</p> <p>8 the communications imperatives identified</p> <p>9 a must have as part of a crisis</p> <p>10 preparedness program is, looking at the</p> <p>11 third bullet point, "A strategy to</p> <p>12 neutralize critics/activists."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Those are pretty strong</p> <p>16 words, right, neutralize?</p> <p>17 MS. VANNI: Object to form.</p> <p>18 THE WITNESS: I didn't write</p> <p>19 them. They were written by a PR</p> <p>20 firm.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. Well -- just to make sure we</p> <p>23 are on the same page. This was, in fact,</p> <p>24 a PR firm that Endo hired. But I -- I</p>

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<p>1 will show you. I know you said you don't 2 remember. Let me show you, so you know 3 the basis on which we are saying that. 4 You don't have to take my word for it. 5 (Document marked for 6 identification as Exhibit 7 Endo-Stevenson-22.) 8 BY MS. SCULLION: 9 Q. Let me show you what's been 10 marked as Exhibit 22. 11 And Exhibit 22 is a copy of 12 Endo Health Solutions Inc. and Endo 13 Pharmaceutical Inc.'s -- excuse me, Endo 14 Pharmaceuticals Inc.'s supplemental 15 objections and responses to plaintiffs' 16 second set of interrogatories numbers -- 17 and I'm not going to read the series of 18 numbers. 19 If you'll go to Page 35. 20 A. Can I just ask a question? 21 Q. Absolutely. 22 A. What -- what is the date of 23 this document? 24 Q. Sure. The date of this</p>	<p>1 to -- 2 A. But Cohn &amp; Wolfe did not do 3 any marketing or promotional materials 4 for the generic business, just for -- 5 Q. That's fine. 6 A. For the record. 7 Q. That's fine. 8 Here, here we're looking in 9 Exhibit 19 at what is more traditionally 10 called public relations. 11 A. Yes. 12 Q. Okay. So let's -- we were 13 on the page communications imperatives. 14 A. Yes. 15 Q. And the strategy to 16 neutralize critics/activists, right? 17 A. Yes. 18 Q. Just getting us back to 19 where we are. 20 Now, again, what's written 21 here is to neutralize the critics and 22 activists. It doesn't say for example, 23 engage in a thoughtful debate, right? 24 MS. VANNI: Object to form.</p>
Page 327	Page 329
<p>1 document is November 15, 2018. 2 A. 2018, okay. 3 Q. Correct. If you'll go to 4 Page 34. 5 A. 34. 6 Q. And I'm looking at 7 Interrogatory Number 31. 8 A. 34, okay. 9 Q. Okay. And this is an 10 interrogatory, you can see, that asks 11 Endo to identify all vendors, including 12 but not limited to, public relations 13 firms you have retained for purposes 14 relating to opioids. And it -- it asks 15 for certain details. 16 And on the next page, 35, 17 you see listed under vendor, Cohn &amp; 18 Wolfe. It says, "/GCI Health." And it 19 identifies the purpose for hiring that 20 vendor as marketing and promotional 21 materials, public relations. 22 Do you see that? 23 A. Yes. 24 Q. Okay. So let's go back</p>	<p>1 THE WITNESS: I had no way 2 of controlling what somebody 3 writes in a PowerPoint 4 presentation who worked for 5 another firm. 6 BY MS. SCULLION: 7 Q. Just asking. It doesn't say 8 that, right, it doesn't say engage in a 9 thoughtful debate, right? 10 MS. VANNI: Object to form. 11 THE WITNESS: No, it says 12 neutralize, as we've already said 13 five times. 14 BY MS. SCULLION: 15 Q. It doesn't say give 16 considered attention to the concerns of a 17 community devastated by the opioid 18 epidemic, it doesn't say that, right? 19 MS. VANNI: Objection to 20 form. 21 THE WITNESS: No, it doesn't 22 say that. 23 BY MS. SCULLION: 24 Q. Says neutralize the critics</p>

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<p style="text-align: right;">Page 330</p> <p>1 and -- and activists, right?</p> <p>2 A. Yes, that's what it says.</p> <p>3 Q. Right. And common</p> <p>4 understanding of the term "neutralize"</p> <p>5 means to stop something from being</p> <p>6 effective, right?</p> <p>7 MS. VANNI: Object to form.</p> <p>8 THE WITNESS: I don't know</p> <p>9 how the -- what the intent of the</p> <p>10 meaning was in the PowerPoint</p> <p>11 presentation, since I didn't write</p> <p>12 it.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. That's -- that's an</p> <p>15 understanding of what the -- the term</p> <p>16 "neutralize" does mean: Stop something</p> <p>17 from being effective?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: One could have</p> <p>20 numerous, numerous definitions.</p> <p>21 Who knows what was in the state of</p> <p>22 mind of the individual who wrote</p> <p>23 it.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: right;">Page 332</p> <p>1 I probably told you to go back too far.</p> <p>2 I apologize.</p> <p>3 A. Okay. Let's start over</p> <p>4 again.</p> <p>5 Q. Yeah.</p> <p>6 A. Oh, is that it?</p> <p>7 Q. That's it. Thank you. I</p> <p>8 apologize, we don't have page numbers.</p> <p>9 A. That's all right. No</p> <p>10 problem. My mistake.</p> <p>11 Q. This section is talking</p> <p>12 about three options for a media strategy.</p> <p>13 And again, this is for the launch of</p> <p>14 generic oxycodone ER product, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And then if you go to</p> <p>17 the next page, in discussing the pros and</p> <p>18 cons of one option, which is to conduct</p> <p>19 top tier briefings, do you see under the</p> <p>20 cons section, fourth bullet point down</p> <p>21 is, "Endo 'blues' story emerges."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And if you go to the next</p>
<p style="text-align: right;">Page 331</p> <p>1 Q. Well, the one thing we do</p> <p>2 know is they -- they wrote that there</p> <p>3 must -- the must have was a strategy to</p> <p>4 neutralize critics and activists. That's</p> <p>5 what they did write, right?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: That's what</p> <p>8 they wrote, yes.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q. Okay. And then if you'll go</p> <p>11 two more pages in. This is part of the</p> <p>12 presentation of options for media</p> <p>13 strategy for the 3218 launch.</p> <p>14 Do you see that?</p> <p>15 A. What does it say at the top?</p> <p>16 Q. Media strategy for 3218</p> <p>17 launch, three options?</p> <p>18 A. Media -- media launch tab,</p> <p>19 do you reckon that is what it is?</p> <p>20 MS. VANNI: It's not up on</p> <p>21 the screen.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. Oh. That's the one. Media</p> <p>24 strategy for 3218 launch, three options.</p>	<p style="text-align: right;">Page 333</p> <p>1 page, which is discussing another</p> <p>2 potential media strategy option. Again,</p> <p>3 under the cons we see listed, "Endo</p> <p>4 'blues' story emerges."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And same thing on the last</p> <p>8 potential strategy under the cons, "Endo</p> <p>9 'blues' story emerges."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And that was a reference to</p> <p>13 the history of abuse of the oxymorphone</p> <p>14 pills in the '60s and '70s, right?</p> <p>15 MS. VANNI: Objection,</p> <p>16 foundation.</p> <p>17 THE WITNESS: I have no</p> <p>18 knowledge what it is. I've never</p> <p>19 heard of it before.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. You never heard anyone talk</p> <p>22 about a prior version of oxymorphone</p> <p>23 being called "the blues"?</p> <p>24 A. No. I have never heard that</p>

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<p style="text-align: right;">Page 334</p> <p>1 before.</p> <p>2 Q. Okay.</p> <p>3 MS. SCULLION: Can I have</p> <p>4 tab -- Tab 74 and 72.</p> <p>5 (Document marked for</p> <p>6 identification as Exhibit</p> <p>7 Endo-Stevenson-23.)</p> <p>8 BY MS. SCULLION:</p> <p>9 Q. Let me first hand you what's</p> <p>10 been marked Exhibit 23.</p> <p>11 Exhibit 23 is an excerpt</p> <p>12 from a book called "Drug Abuse: Current</p> <p>13 concerns and research."</p> <p>14 A. What is the date of this</p> <p>15 document?</p> <p>16 Q. If you'll turn to the second</p> <p>17 page of the exhibit, you can see that</p> <p>18 this was a book that was copyrighted in</p> <p>19 1972.</p> <p>20 A. Okay. Thank you.</p> <p>21 Q. Okay. And again I don't</p> <p>22 have all the page numbers, so it's a</p> <p>23 little bit hard to direct you. But,</p> <p>24 yeah, in the upper right-hand corner we</p>	<p style="text-align: right;">Page 336</p> <p>1 Q. And this is indicated to be</p> <p>2 Chapter 35 of this book. And it is</p> <p>3 entitled "Oxymorphone Abuse Among</p> <p>4 Narcotic Addicts."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And it discusses in the</p> <p>8 first line, "Numorphan (oxymorphone), a</p> <p>9 narcotic analgesic developed and first</p> <p>10 marketed by Endo Laboratories in 1966 has</p> <p>11 become a drug abuse" -- "a drug of abuse</p> <p>12 among a sizable segment of the narcotic</p> <p>13 addict population."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And I think we</p> <p>17 discussed earlier, oxymorphone was the</p> <p>18 opioid Endo used in the Opana IR and ER</p> <p>19 products, right?</p> <p>20 MS. VANNI: Object to form.</p> <p>21 THE WITNESS: It was a brand</p> <p>22 product, which I had no</p> <p>23 involvement.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: right;">Page 335</p> <p>1 have numbers E137. Do you see those</p> <p>2 numbers?</p> <p>3 A. I'm sorry, I don't see them.</p> <p>4 Do you see them?</p> <p>5 MS. VANNI: Where is it?</p> <p>6 I'm sorry.</p> <p>7 MS. SCULLION: Sure. You</p> <p>8 have these -- upper right-hand</p> <p>9 corner.</p> <p>10 THE WITNESS: I have to get</p> <p>11 through the --</p> <p>12 MS. SCULLION: You have</p> <p>13 these little numbers that say</p> <p>14 E137.</p> <p>15 THE WITNESS: Oh, at the</p> <p>16 back. I see.</p> <p>17 MS. SCULLION: Yeah.</p> <p>18 THE WITNESS: Okay. Sorry.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Sure. And so --</p> <p>21 A. I'm sorry. What is the</p> <p>22 page?</p> <p>23 Q. E137.1.</p> <p>24 A. Yeah.</p>	<p style="text-align: right;">Page 337</p> <p>1 Q. I'm just asking the -- you</p> <p>2 understand that was the same opioid,</p> <p>3 right?</p> <p>4 MS. VANNI: Object to form,</p> <p>5 foundation.</p> <p>6 THE WITNESS: To be honest,</p> <p>7 you know, I haven't done -- what</p> <p>8 the derivative is or what was the</p> <p>9 predecessor of it, I really don't</p> <p>10 know. It wasn't my focus.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Sure. We saw earlier in the</p> <p>13 10-K though that oxymorphone was listed</p> <p>14 as one of the products that Endo was</p> <p>15 marketing during your time there?</p> <p>16 A. Oh, yeah. They were</p> <p>17 marketing several products when I was</p> <p>18 there.</p> <p>19 Q. Okay. And then if you look</p> <p>20 under the heading "Background," you'll</p> <p>21 see in the second paragraph, it says, "On</p> <p>22 the street Numorphan can be identified by</p> <p>23 its various subculture names Numorphine,</p> <p>24 Blue Morphine, Blue Morphan, or Blues."</p>

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<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. If you go to the next page.</p> <p>4 E137.2, under the heading "The Prevalence</p> <p>5 of Numorphan Abuse," do you see it says,</p> <p>6 "The abuse of Numorphan appears to be</p> <p>7 rather widespread geographically.</p> <p>8 Without any systematic attempt to gather</p> <p>9 case histories, we have discovered</p> <p>10 Numorphan addicts in Florida, Kentucky,</p> <p>11 Pennsylvania, and New York."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 MS. SCULLION: Let's look at</p> <p>15 Tab 72.</p> <p>16 (Document marked for</p> <p>17 identification as Exhibit</p> <p>18 Endo-Stevenson-24.)</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. I'll show you what's been</p> <p>21 marked as Exhibit 24. Exhibit 24 is</p> <p>22 Bates-stamped ENDO-OPIOID_MDL-06775127.</p> <p>23 MS. VANNI: Just note my</p> <p>24 objection to the extent that this</p>	<p>1 lives of thousands of abusers."</p> <p>2 Do you see that?</p> <p>3 A. I see that's what it says.</p> <p>4 Q. Okay. And you were aware</p> <p>5 that Opana was twice as strong as</p> <p>6 OxyContin, right?</p> <p>7 MS. VANNI: Object to form</p> <p>8 foundation.</p> <p>9 THE WITNESS: No, I was not</p> <p>10 aware of that.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Any reason to doubt the</p> <p>13 accuracy of that?</p> <p>14 MS. VANNI: Objection.</p> <p>15 THE WITNESS: I have no idea</p> <p>16 who Mr. Elzweig is. I have no --</p> <p>17 I have no knowledge of what he</p> <p>18 based his article on. So I do not</p> <p>19 know that it was twice as large,</p> <p>20 one third as large or less. I</p> <p>21 have no -- again, as I testified</p> <p>22 before, whether it's -- what is</p> <p>23 this drug called? Numorphan or</p> <p>24 oxy -- oxymorphone, that's a brand</p>
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<p>1 postdates his employment.</p> <p>2 MS. SCULLION: Understood.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. If you go down to the bottom</p> <p>5 of the first page of Exhibit 24. I just</p> <p>6 want to direct your attention to the</p> <p>7 e-mail. It's from Robert Reder to a</p> <p>8 variety of folks. And it is dated</p> <p>9 March 6, 2008.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And let's turn to the</p> <p>13 next page. You'll see that Dr. Reder is</p> <p>14 forwarding an item from the New York</p> <p>15 press entitled "Opana: A Brief History."</p> <p>16 Do you see that?</p> <p>17 A. Yeah. Yes.</p> <p>18 Q. And just for orientation,</p> <p>19 the first paragraph states, "Opana, a</p> <p>20 powerful painkiller that went on the</p> <p>21 market less than two years ago, is twice</p> <p>22 as strong as OxyContin with a potential</p> <p>23 for addiction that rivals the</p> <p>24 prescription drug that has ravaged the</p>	<p>1 product, not a generic.</p> <p>2 So my involvement was only</p> <p>3 in the stocking of the product</p> <p>4 once I took over trade affairs in</p> <p>5 late '06. I had no other</p> <p>6 involvement with the product. I</p> <p>7 didn't follow the product. I</p> <p>8 wasn't involved in strategic</p> <p>9 discussions about the product, how</p> <p>10 the product was promoted or</p> <p>11 anything else involving the</p> <p>12 product.</p> <p>13 You know, I may have gotten</p> <p>14 copies of documents because I was</p> <p>15 at the VP level. What did I do?</p> <p>16 I put it in my file. Okay, great.</p> <p>17 They sent me a document. It has</p> <p>18 to go somewhere. So I put it in</p> <p>19 my folder.</p> <p>20 But I was not involved with</p> <p>21 these brand products whether it</p> <p>22 was Percocet, oxymorphone ER,</p> <p>23 Numorphan.</p> <p>24 MS. VANNI: And just for the</p>



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<p>1 record, I just want to note that</p> <p>2 you missed my objection, on the</p> <p>3 "any reason to doubt" question.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. But we did see earlier in</p> <p>6 your performance evaluation that you were</p> <p>7 involved with Opana, at least to the</p> <p>8 extent of, as you said, facilitating</p> <p>9 the --</p> <p>10 A. Stocking.</p> <p>11 Q. -- relationships with the</p> <p>12 trade on stocking, right?</p> <p>13 A. Stocking, yes. I agree.</p> <p>14 Q. Right. And that was -- and</p> <p>15 that was an important part of the launch</p> <p>16 of Opana ER, right, getting that stocked?</p> <p>17 MS. VANNI: Object to form.</p> <p>18 THE WITNESS: Well, you have</p> <p>19 to have it stocked, yes.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. Right. And when you were</p> <p>22 helping get that drug stocked, are you</p> <p>23 telling me that you were not aware that</p> <p>24 Opana -- that oxymorphone had a history</p>	<p>1 'Blues' in the 1989 Gus Van Sant film,</p> <p>2 Drugstore Cowboy, about a family of</p> <p>3 traveling drug addicts set in the early</p> <p>4 1970s."</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. Mr. Stevenson, so sitting</p> <p>8 here today, you're telling me that during</p> <p>9 the time that you were helping Endo get</p> <p>10 oxymorphone tablets stocked out in the</p> <p>11 retail drug chains, no one made you aware</p> <p>12 of this history of abuse of that opioid,</p> <p>13 right?</p> <p>14 MS. VANNI: Objection.</p> <p>15 THE WITNESS: I was not</p> <p>16 aware of -- I was not aware of</p> <p>17 anything involving Numorphan.</p> <p>18 That never came up during my</p> <p>19 tenure there.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. Okay. Fair to say that in</p> <p>22 terms of the relationships that you were</p> <p>23 discussing are important to develop with</p> <p>24 the trade, that you never informed anyone</p>
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<p>1 of abuse in the 1960s and '70s under the</p> <p>2 name Blues?</p> <p>3 MS. VANNI: Object to form.</p> <p>4 THE WITNESS: I was not</p> <p>5 aware of that. I've never heard</p> <p>6 of that before.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q. Okay. And just, again, to</p> <p>9 draw your attention in Exhibit 24 to the</p> <p>10 last paragraph of the article.</p> <p>11 A. Oh, 24. That's this one?</p> <p>12 Q. That's the article, right.</p> <p>13 A. The last paragraph?</p> <p>14 Q. Right. Which explains,</p> <p>15 "This isn't the first time that</p> <p>16 oxymorphone hydrochloride has been</p> <p>17 available in tablet form. Until it was</p> <p>18 taken off the market in the 1970s, it was</p> <p>19 available in 10-milligram tablets under</p> <p>20 the brand name Numorphan."</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And it goes on to</p> <p>24 say, "That was the drug referred to as</p>	<p>1 in your trade relationships that</p> <p>2 oxymorphone, in fact, had a history of</p> <p>3 abuse in the 1960s and '70s, right?</p> <p>4 MS. VANNI: Objection.</p> <p>5 THE WITNESS: We were</p> <p>6 stocking an FDA-approved product.</p> <p>7 The FDA approved a product, and</p> <p>8 what -- and what the goal was, was</p> <p>9 to make sure that the product was</p> <p>10 stocked. That was, while an</p> <p>11 important aspect of the product</p> <p>12 launch, it was not a significant</p> <p>13 activity for myself. It was</p> <p>14 basically in the hands of three</p> <p>15 national account executives who</p> <p>16 reported to me at the time. And</p> <p>17 that was our only involvement with</p> <p>18 oxymorphone.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Understood. The question is</p> <p>21 just, factually, I assume from your prior</p> <p>22 answers that it's fair to say that when</p> <p>23 your national account executives were</p> <p>24 interacting with the trade to get Opana</p>

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<p style="text-align: right;">Page 346</p> <p>1 and Opana ER stocked, as part of the 2 launch, they were not telling the trade 3 that that opioid had a history of abuse 4 in the 1960s or '70's? Just factually 5 that didn't happen? 6 MS. VANNI: Objection. 7 THE WITNESS: They would not 8 be telling them that. 9 (Document marked for 10 identification as Exhibit 11 Endo-Stevenson-25.) 12 BY MS. SCULLION: 13 Q. Let me hand you what's been 14 marked -- sorry. Do I have an extra copy 15 of this? Yeah, I do. 16 Let me hand you what's been 17 marked as Exhibit 25. 18 MS. VANNI: Thank you. 19 BY MS. SCULLION: 20 Q. Exhibit 25 is Bates-stamped 21 ENDO-OPIOID_MDL-00156150. 22 And, Mr. Stevenson, have you 23 seen Exhibit 25 before? 24 A. No.</p>	<p style="text-align: right;">Page 348</p> <p>1 July 10, 2000, the Endo Pharmaceuticals 2 entity referred to here, that's the Endo 3 Pharmaceuticals entity that you 4 eventually did go to work for, right? 5 A. Yes. But not in 2000. I 6 was not there. 7 Q. Understood. This is -- this 8 is the -- what we call the modern Endo 9 entity, right? 10 MS. VANNI: Object to form. 11 THE WITNESS: I only know it 12 as Endo Pharmaceuticals. 13 BY MS. SCULLION: 14 Q. Okay. And if you'll go down 15 to the third bullet point on the first 16 page of this letter, there is a 17 discussion that, "On October 18, 1971, 18 Endo referenced a Federal Register notice 19 in which FDA classified Numorphan tablets 20 and injection as effective." 21 Do you see that? 22 A. Yes. 23 Q. That's an indication that at 24 least as of that time, the FDA had</p>
<p style="text-align: right;">Page 347</p> <p>1 Q. Okay. And you can see it's 2 a letter on Endo letterhead dated 3 July 10th, 2000. And it's addressed to 4 Dr. Cynthia McCormick at the Division of 5 an Anesthetic, Critical Care, and 6 Addiction Drug Products at the FDA. 7 Do you see that? 8 A. Yes. 9 Q. Okay. And the reference, 10 the Re line is to "Numorphan 11 controlled-release tablet correspondence 12 to provide additional information." 13 Do you see that? 14 A. Yes. 15 Q. And do you recall we just 16 looked in that article in Exhibit 24, 17 that discussed the fact that oxymorphone 18 had previously been sold under the name 19 Numorphan? 20 MS. VANNI: Objection. 21 Foundation. 22 THE WITNESS: Yes. 23 BY MS. SCULLION: 24 Q. Okay. Now, July -- as of</p>	<p style="text-align: right;">Page 349</p> <p>1 classified Numorphan tablets as 2 effective, right? 3 MS. VANNI: Object to form. 4 Foundation. 5 THE WITNESS: Yes. 6 BY MS. SCULLION: 7 Q. And then it goes on to say, 8 "In this notice FDA requested a 9 supplement for revised labeling and a 10 supplement for updating information and 11 adequate data to show the bioavailability 12 of the drug when administered other than 13 by intravenous route." 14 Did I read that correctly? 15 A. Yes. 16 Q. And then it explains though 17 that in this October 18, 1971 letter, 18 Endo indicated that a supplement for the 19 tablets was not being submitted -- go to 20 the next page -- because production and 21 distribution of this drug was being 22 suspended as of May 1st, 1971. 23 Do you see that? 24 A. Yes.</p>

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<p style="text-align: right;">Page 350</p> <p>1 Q. Okay. Were you aware that</p> <p>2 despite the FDA having classified the</p> <p>3 Numorphan tablets as effective, the</p> <p>4 entity that was Endo in 1971 had decided</p> <p>5 to suspend production and distribution of</p> <p>6 the drug?</p> <p>7 MS. VANNI: Objection to</p> <p>8 foundation.</p> <p>9 THE WITNESS: No, I was not</p> <p>10 aware. For the record, I'm not</p> <p>11 aware of anything that happened on</p> <p>12 Numorphan.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. All right. And so then</p> <p>15 again, fair to say that you weren't</p> <p>16 aware -- you didn't tell any of the --</p> <p>17 any your trade -- trade connections about</p> <p>18 that history, right?</p> <p>19 MS. VANNI: Objection.</p> <p>20 THE WITNESS: No. I was</p> <p>21 unaware of it, so how could I tell</p> <p>22 them if I was unaware of it?</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. Exactly. And none of your</p>	<p style="text-align: right;">Page 352</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Let me hand you what has</p> <p>3 been marked as Exhibit 26. Exhibit 26 is</p> <p>4 Bates-stamped ENDO-OPIOID_MDL-00856825.</p> <p>5 And Mr. Stevenson, do you</p> <p>6 see this is an e-mail from you to</p> <p>7 Mr. Kerr on October 20th, 2006, subject</p> <p>8 matter "Project Pizza"?</p> <p>9 A. Yes.</p> <p>10 Q. If you recall, we saw that</p> <p>11 term, Project Pizza, earlier today.</p> <p>12 By any chance, have you had</p> <p>13 any recollection about what Project Pizza</p> <p>14 meant?</p> <p>15 A. To be honest, I'm just --</p> <p>16 I'm gathering it had to do something with</p> <p>17 Opana ER stocking.</p> <p>18 Q. Okay. Fair enough. So you</p> <p>19 explained to Mr. Kerr in the first page</p> <p>20 of Exhibit 26, "Pursuant to our meeting,</p> <p>21 attached is Opana ER sold to our direct</p> <p>22 buying accounts launch year-to-date. It</p> <p>23 is in dollars, and on Monday someone will</p> <p>24 get an assignment to put into bottles.</p>
<p style="text-align: right;">Page 351</p> <p>1 national account executives informed the</p> <p>2 trade when they were stocking Opana or</p> <p>3 Opana ER about this history with respect</p> <p>4 to Numorphan, right?</p> <p>5 MS. VANNI: Objection.</p> <p>6 Asked and answered.</p> <p>7 THE WITNESS: Not to my</p> <p>8 knowledge.</p> <p>9 MS. SCULLION: Okay. We've</p> <p>10 been going for a while. This is a</p> <p>11 good time for a quick break.</p> <p>12 THE VIDEOGRAPHER: Off the</p> <p>13 record, 2:40.</p> <p>14 (Short break.)</p> <p>15 THE VIDEOGRAPHER: We are</p> <p>16 back on the record at 2:58.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. Welcome back, Mr. Stevenson.</p> <p>19 You understand that you're still under</p> <p>20 oath?</p> <p>21 A. Yes, I do.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Endo-Stevenson-26.)</p>	<p style="text-align: right;">Page 353</p> <p>1 But I believe it tells the story of lack</p> <p>2 of pull-through."</p> <p>3 Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then you go on,</p> <p>6 in the third sentence -- fourth sentence</p> <p>7 discussed, "Also included is data taken</p> <p>8 from Cardinal and Kinray," it says, "567,</p> <p>9 which shows sales out by product and is</p> <p>10 provided under their DSAs."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. I just want to make sure I</p> <p>14 understand what it was that you were</p> <p>15 talking about here. Let's start with</p> <p>16 DSAs. Those are distributor service</p> <p>17 agreements?</p> <p>18 A. Distribution service</p> <p>19 agreements.</p> <p>20 Q. Distribution service</p> <p>21 agreements. What's a distribution</p> <p>22 service agreement?</p> <p>23 A. It was an agreement -- in</p> <p>24 layman's terms it was an agreement</p>

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<p style="text-align: right;">Page 354</p> <p>1 between the respective wholesaler, and in 2 this case Endo. They were widely used by 3 pharmaceutical companies. In this case, 4 it was the distributor -- I mean, it was 5 a wholesaler in question, and it 6 established fees that the wholesaler 7 negotiated a fee that they received in 8 return for their services. 9 It also limited the amount 10 of quantity that they could stock. You 11 know, they had to -- they had to have a 12 minimum and a maximum. So no less than 13 30, no more than 45, that kind of thing. 14 I don't remember what the exact numbers 15 were. 16 But it was designed to -- it 17 was designed as an outgrowth of what 18 happened in a court case involving 19 stuffing the channel. There was a -- I 20 don't know all the companies involved. 21 But there was a stuffing-the-channel 22 case. And there's a fine line between 23 having products, enough on hand to 24 fulfill demand, and what is was called</p>	<p style="text-align: right;">Page 356</p> <p>1 A. As I recall, yes. It didn't 2 apply -- to be clear, it only -- it did 3 not apply to generics. It was just for 4 brands. 5 Q. Fair enough. And that's 6 what we're talking about here, was the 7 relationship with the wholesalers with 8 respect to Opana ER, branded product? 9 A. Yes. 10 Q. And -- and you were 11 explaining that the reason that, let's 12 take Endo in this case, was paying a fee 13 under these distribution service 14 agreements, was in recognition of certain 15 services provided by the distributors. 16 Do I understand correctly? 17 A. By the wholesalers, yes. 18 Q. Wholesalers, thank you. Is 19 wholesalers different from distributor or 20 just better term? 21 A. Distributor has a different 22 meaning to me. 23 Q. Fair enough. 24 A. I understand why people call</p>
<p style="text-align: right;">Page 355</p> <p>1 stuffing the channel. 2 And so there's a -- you're 3 not allowed to manage income. It's 4 against the, you know, SEC law. There's 5 a rule against that law or whatever. I'm 6 not a lawyer. But there was a -- 7 And so as a result of that, 8 when the dust settled, the wholesalers 9 were concerned that they were providing 10 services for no compensation, and the 11 pharmaceutical companies, whether it be 12 Endo or anybody else, recognized, okay, 13 they did provide a value, and they 14 negotiated respectively with each 15 wholesaler what the fee was. It was 16 normally a couple percent -- you know, 17 percent. 18 Q. Okay. So that was a lot. 19 That's helpful. Let me just make sure I 20 understand the various pieces of that. 21 Let's start with the last point. You 22 said that the fee negotiated was normally 23 a couple percent. Is that percent of the 24 product sales?</p>	<p style="text-align: right;">Page 357</p> <p>1 them distributor. To me a distributor is 2 different than a wholesaler. 3 Q. We'll call them wholesalers. 4 Thank you. Even though it's called 5 distribution services agreement, it's a 6 wholesaler? 7 A. Yeah, it was the -- 8 wholesaler was providing distribution 9 services. 10 Q. And what did those 11 distribution services entail? 12 Can you give me an example, 13 and explain what they were? 14 A. Well, they would stock the 15 product. They would, you know, ship the 16 product out. They would provide data. 17 You know, I think 567s -- I don't recall 18 exact, they were sales out data. You 19 know, that was interesting data to have. 20 You know, what -- what did they sell out 21 of there. Again, it enabled you to 22 monitor product, because if you sold 100 23 bottles and they shipped out 90, okay, 24 that meant, you know, if they ordered you</p>

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<p style="text-align: right;">Page 358</p> <p>1 could use that as your order monitoring.  2 It was very -- you know, especially for a  3 control drug, you could -- it enabled you  4 to better monitor what inventory they had  5 on hand and what they were shipping out.  6 You can see who they shipped it to with  7 respect to a large account. You know,  8 that -- that kind of data.  9 So they provided that  10 service. They provided, you know, it  11 was -- the big product, the big thing was  12 stocking in all of their DCs. So it was  13 called DC balancing. So if you send 100  14 bottles to a DC, you know, in Michigan  15 somewhere and you had ten other DCs out  16 of product, that was -- that was not  17 conducive to consider stocking.  18 So part of the agreement was  19 they would have their -- they would have  20 their -- your product in all of their  21 DCs, in adequate quantities that they  22 could meet demand.  23 Q. The e-mail references --  24 references -- excuse me, I'm losing my</p>	<p style="text-align: right;">Page 360</p> <p>1 Q. And Endo could negotiate or  2 tried to negotiate to get that sales out  3 data included as part of a DSA if it  4 wanted to, right?  5 MS. VANNI: Object to form.  6 THE WITNESS: It was part of  7 the negotiation. It was something  8 that was -- that they could  9 provide.  10 And before a DSA, they would  11 charge for that.  12 BY MS. SCULLION:  13 Q. Okay.  14 A. And -- but as far as the  15 DSA, it was agreement, an overall  16 agreement on minimal inventories, maximum  17 inventories. It was designed to prevent  18 spec buying. Had benefits to both sides,  19 and one of the benefits to a company like  20 Endo, was that you could get sales out  21 data.  22 Q. Okay. And I think you  23 explained though that even if it hadn't  24 been provided for in the DSA, Endo could</p>
<p style="text-align: right;">Page 359</p> <p>1 tongue.  2 The e-mail references 567s.  3 A. Right.  4 Q. You discussed that in your  5 testimony.  6 Is 567 sometimes called the  7 867 data?  8 A. It could have been. That's  9 why I said the 567. It could be 867.  10 But it's sales out.  11 Q. It's sales out. Okay.  12 Have you worked, whether  13 it's 567 or 867, had you worked with that  14 kind of sales out data before you joined  15 Endo?  16 A. No, because it was  17 relatively new during that time frame  18 that these things became popular.  19 Q. Got it. Okay. But that  20 data was provided to Endo under DSA, to  21 the extent that the DSA called for it,  22 right?  23 A. Yes. Whatever was in the --  24 yes, mm-hmm, yes.</p>	<p style="text-align: right;">Page 361</p> <p>1 have gotten that sales out data from a  2 wholesaler by paying for it, right?  3 A. Yeah.  4 MS. VANNI: Object to form.  5 BY MS. SCULLION:  6 Q. Okay.  7 A. With the caveat that they  8 normally wanted an exorbitant price, so  9 nobody wanted to pay for it.  10 Q. Okay. So -- so then it was  11 then negotiated as at least part of some  12 of the DSA's, right?  13 A. Yeah.  14 Q. Is that right?  15 A. Yes.  16 Q. Okay. Thanks.  17 Okay. And I just want to  18 quick -- take a quick look at the data  19 itself that you're referencing.  20 Go to the next page of  21 Exhibit 26. It's a little bit hard to  22 read. I think it's somehow cut off in  23 the way that it's printed out here.  24 A. Which -- which page? I'm</p>



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<p style="text-align: right;">Page 362</p> <p>1       sorry.</p> <p>2       Q.   The next page of Exhibit 26.</p> <p>3       So the first --</p> <p>4       A.   Oh, okay.</p> <p>5       Q.   -- chart or data run, I</p> <p>6       should say. And it says -- it has</p> <p>7       handwritten at the top, Opana ER</p> <p>8       5-milligram?</p> <p>9       A.   Yes.</p> <p>10      Q.   Do you have that?</p> <p>11      A.   Yeah.</p> <p>12      Q.   Okay. I just want to make</p> <p>13      sure I understand the best I can here.</p> <p>14           The first column, again it's</p> <p>15      slightly cut off, appears to be sold to</p> <p>16      party; is that right?</p> <p>17      A.   Yes.</p> <p>18      Q.   Okay. And then under -- in</p> <p>19      that column it's listing the names of the</p> <p>20      entities to which the wholesaler has sold</p> <p>21      the product in question, right?</p> <p>22      A.   No. These are the -- these</p> <p>23      are the wholesalers.</p> <p>24      Q.   Oh. Okay. That's why I was</p>	<p style="text-align: right;">Page 364</p> <p>1       A.   23? Oh.</p> <p>2       Q.   No, no. I have Tab 23. I'm</p> <p>3       going to get it to you. It's a lot of</p> <p>4       numbers.</p> <p>5           (Document marked for</p> <p>6       identification as Exhibit</p> <p>7       Endo-Stevenson-27.)</p> <p>8       BY MS. SCULLION:</p> <p>9       Q.   I'll hand you what's been</p> <p>10      marked as Exhibit 27. And Exhibit 27 is</p> <p>11      Bates-stamped ENDO-OPIOID_MDL-02230226.</p> <p>12           And, Mr. Stevenson, do you</p> <p>13      recognize Exhibit 27 as a series of</p> <p>14      e-mails from you to various folks in late</p> <p>15      October 2006?</p> <p>16      A.   Yes.</p> <p>17      Q.   All right. Let's start on</p> <p>18      the next to last page of the exhibit. At</p> <p>19      the bottom it says -- 227 is the last</p> <p>20      three digits of the number.</p> <p>21      A.   Yes.</p> <p>22      Q.   Okay. And let's start</p> <p>23      with -- with your e-mail at the bottom of</p> <p>24      the page, which again is from you to</p>
<p style="text-align: right;">Page 363</p> <p>1       a little confused. I thought it said</p> <p>2       sold to party. Maybe that won't work.</p> <p>3       Let's see. Okay.</p> <p>4           But here we have listed by</p> <p>5       month, as you said, this is the dollar</p> <p>6       amounts of sales to these wholesalers,</p> <p>7       right?</p> <p>8       A.   Yes. It appears to be.</p> <p>9       Q.   Okay. And you indicate in</p> <p>10      your e-mail that you would be getting</p> <p>11      that information in -- in bottles, I</p> <p>12      think you anticipated within the next</p> <p>13      couple days. You said, "By Monday, we'd</p> <p>14      get that information in bottles," right?</p> <p>15      A.   Yes -- well, no, it says</p> <p>16      here, "On Monday someone will get the</p> <p>17      assignment to put it into bottles."</p> <p>18      Q.   Thank you. That's right.</p> <p>19      Okay.</p> <p>20      A.   That's what I -- I have to</p> <p>21      review it again. I...</p> <p>22      Q.   Thank you. Okay.</p> <p>23           Let's go to Tab 23. You can</p> <p>24      put this one aside for now.</p>	<p style="text-align: right;">Page 365</p> <p>1       Mr. Kerr and it's cc'd to Mark Baglin.</p> <p>2           Do you recall his position</p> <p>3       at the time?</p> <p>4       A.   No, I don't.</p> <p>5       Q.   And again, this is</p> <p>6       concerning Project Pizza, right?</p> <p>7       A.   Yes.</p> <p>8       Q.   All right. And you're</p> <p>9       explaining to Mr. Kerr that you and</p> <p>10      Mr. Baglin had met to -- as a follow-up</p> <p>11      to discussion with Mr. Kerr the day</p> <p>12      before to further brainstorm Project</p> <p>13      Pizza deliverables. And then you explain</p> <p>14      what those are.</p> <p>15           Do you see that?</p> <p>16      A.   Yes.</p> <p>17      Q.   Let's just go to the first</p> <p>18      bullet point which says, "'Mine'</p> <p>19      wholesaler supplied DSA data on sales out</p> <p>20      to help independently verify retail store</p> <p>21      stocking."</p> <p>22           Did I read that correctly?</p> <p>23      A.   Yes.</p> <p>24      Q.   And that's referring to what</p>

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<p style="text-align: right;">Page 366</p> <p>1 we were just talking about before, in</p> <p>2 terms of looking at the sales out data</p> <p>3 from wholesalers to understand what, in</p> <p>4 fact, had been supplied to the retail</p> <p>5 stores one level more down the chain,</p> <p>6 right?</p> <p>7 A. Yeah. The customer's</p> <p>8 customer, yeah.</p> <p>9 Q. Okay.</p> <p>10 A. In most cases. Those are de</p> <p>11 novo.</p> <p>12 Q. And then you go on in the</p> <p>13 next sentence to say, "We receive this</p> <p>14 data every week, but" -- it says, "do use</p> <p>15 it for this purpose (Endo fault)."</p> <p>16 Does it look like you mean</p> <p>17 to say we receive this data every week,</p> <p>18 but do not use it for this purpose?</p> <p>19 A. Yes, I believe so.</p> <p>20 Q. Okay. But to the best of</p> <p>21 your understanding, Endo did, in fact,</p> <p>22 receive this sales out data every week at</p> <p>23 least as of October 2006, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 368</p> <p>1 pharmacies, obviously you have to have</p> <p>2 made the sales to the wholesalers, right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So that's --</p> <p>5 A. Or -- or a vaulted chain.</p> <p>6 Q. Or a vaulted chain, thank</p> <p>7 you.</p> <p>8 Okay. And if you go down to</p> <p>9 the fourth bullet point just to help</p> <p>10 clarify the whole 567/867 issue. You</p> <p>11 say, "As a result, Mark Baglin and I met</p> <p>12 this morning to further brainstorm. We</p> <p>13 agreed to begin with data based on</p> <p>14 quantitative facts that have attribution,</p> <p>15 i.e., 867 data."</p> <p>16 Is that -- and then you go</p> <p>17 on again in the last sentence to talk</p> <p>18 about using 867 data.</p> <p>19 Does that confirm that, in</p> <p>20 fact, you're referring to 867 data in</p> <p>21 that first e-mail we looked at, not 567?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 A. Yes. It was a typo.</p>
<p style="text-align: right;">Page 367</p> <p>1 Q. All right. Okay. Then</p> <p>2 let's go up to the next e-mail which</p> <p>3 starts on the first page of Exhibit 27.</p> <p>4 Okay.</p> <p>5 And now you are giving</p> <p>6 everyone an update on the Project Pizza,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And you explain</p> <p>10 the key takeaways from a recent meeting</p> <p>11 that you and Amy Romero and David Kerr</p> <p>12 had were, first, the goal was 12,000</p> <p>13 retail pharmacies stocked by year-end; is</p> <p>14 that right?</p> <p>15 A. Yes. That's what it says.</p> <p>16 Q. Okay. And 17.5 million in</p> <p>17 net factory sales by year-end; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And you then go on to</p> <p>21 state, "If we" -- "if we achieve the</p> <p>22 12,000 stocked pharmacies we obviously</p> <p>23 will achieve 17.5 million." And that's</p> <p>24 just because, in order to stock the</p>	<p style="text-align: right;">Page 369</p> <p>1 Q. And towards the end of that</p> <p>2 bullet point, you do say, "So using the</p> <p>3 867s and input from chains obtained via</p> <p>4 the NAEs, we will establish a baseline</p> <p>5 early next week."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. We talked about the 867</p> <p>9 input. What was the input from chains</p> <p>10 obtained from the NAE?</p> <p>11 A. It would be, what this is</p> <p>12 referring to -- well, to answer your</p> <p>13 question specifically it would be input</p> <p>14 from the vaulted chains who do not -- did</p> <p>15 not have 867s. So what he was trying to</p> <p>16 establish, on a total market basis, you</p> <p>17 know, where are we with stock. He was</p> <p>18 getting pressure to Opana -- as I</p> <p>19 remember. You know, I don't remember</p> <p>20 much about this stuff. But it was -- the</p> <p>21 Project Pizza was a fancy word for -- you</p> <p>22 know, they gave it a code name in order</p> <p>23 to have adequate stocking of Opana.</p> <p>24 And why -- so that's why the</p>

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<p>1 feeling was, reading this, that leading 2 up to these e-mails, that it was not 3 stocking, and the pull-through was not 4 sufficient. So -- or below par, I mean 5 below expectation. 6 So we had this focus, you 7 know, to have better stocking. 8 Q. Understood. And you 9 explained sales-out data would show you 10 the customer's customers of the 11 wholesaler, right -- 12 A. Yes. 13 Q. -- what the stocking was; is 14 that right? 15 A. Yes. 16 Q. And then with respect to the 17 vaulted chains. Was the idea that the 18 NAEs, the national account executives, 19 would get similar information about what 20 the level of stocking was at the 21 individual stores within the vaulted 22 chains? 23 A. If they could. You know, 24 the chains may not have agreed to provide</p>	<p>1 will probably run a promotion focused on 2 the retail pull-through from the 3 wholesaler." 4 Do you see that? 5 A. Yes. 6 Q. Let me try and break that 7 down and make sure I understand. First 8 of all, the WG there refers to Walgreens; 9 is that right? 10 A. I believe so, yes. 11 Q. Okay. And do I understand 12 correctly that you're saying if the data 13 winds up showing that that's 6,000 stores 14 stocked, even when Walgreens is accounted 15 for, we will probably run a promotion, 16 that that's what Endo -- you were 17 proposing to do, is if the data showed 18 that level of stocking, you would run a 19 promotion, right? 20 MS. VANNI: Object to form. 21 THE WITNESS: We would run a 22 promotion, not to physicians, but 23 to -- from the wholesaler, we 24 would support one from the</p>
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<p>1 it to them. 2 Q. Okay. But they were going 3 to make an effort to do that, right? 4 A. Yes. 5 Q. Okay. 6 MS. SCULLION: And can we 7 take -- can we go off the record 8 really quickly? 9 THE VIDEOGRAPHER: Off the 10 record. 3:15. 11 (Short break.) 12 THE VIDEOGRAPHER: We are 13 back on the record at 3:19. 14 BY MS. SCULLION: 15 Q. Sorry for that brief 16 interruption. 17 Mr. Stevenson, staying on 18 Exhibit 27, I'd like to bring your 19 attention to the last paragraph at the 20 bottom of the first page where you're 21 talking about the 867 and other data -- 22 information, rather. And you say, "If it 23 shows, we are at 6,000 stores stocked 24 when W-G factored into the equation. We</p>	<p>1 wholesaler to the retailer, which 2 would consist of making sure they 3 knew it was available. 4 If you read further on in 5 the e-mail, you know, there was 6 demand generation program that 7 marketing was creating and sales 8 was executing. 9 BY MS. SCULLION: 10 Q. Yeah. 11 A. So in order for those 12 programs to be successful, they had to be 13 stocking at the retail pharmacy. So 14 that's what this is all about. 15 Q. So let's make sure that we 16 are on the same page. You're referring 17 on the second page of Exhibit 27 at the 18 top, the last sentence of that carryover 19 paragraph that says, "The overriding 20 strategic goal is to have the pharmacies 21 stocked, so as to take advantage of the 22 demand generation programs marketing is 23 creating and sales is executing." 24 A. Correct.</p>

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<p style="text-align: right;">Page 374</p> <p>1 Q. That's what you are 2 referring to? 3 A. Yeah. 4 Q. Just again to put it in 5 layman's terms, your goal was to get the 6 product into the pharmacies stocked, 7 right, so that as prescriptions are 8 coming in from the demand generation 9 programs, they can be filled? 10 A. Correct. 11 MS. VANNI: Object to form. 12 BY MS. SCULLION: 13 Q. Let's stay in that same 14 paragraph, same page. You say at the 15 very top there that, "Endo is prepared to 16 trade price to gain volume and get on the 17 launch trajectory." 18 Do you see that? 19 A. Yes. 20 Q. What did that mean? 21 A. I don't know specifically 22 what the discussion was at that time. 23 You know, normally brands were -- might 24 have been, if there was a -- well, I</p>	<p style="text-align: right;">Page 376</p> <p>1 umpteen pharmacies. Again, it was to get 2 the word out that the product was there 3 and that -- the promotion was not what 4 you would think of promotion in the 5 normal sense. It was -- it was designed 6 to promote the fact that scripts were 7 coming. 8 Q. Okay. And that was to 9 encourage the pharmacies to stock? 10 A. Yeah. To stock the product. 11 Q. Okay. 12 A. To have pull-through. 13 Q. And I think -- and correct 14 me if I got this wrong. I think you 15 mentioned that the promotion could be 16 done, as you said, either directly, you 17 said, from Endo, through a direct mail or 18 PDQ, right? That's one way to do it? 19 A. Yeah, that's one way. 20 Q. Did you also say that the 21 promotion could be done through the 22 wholesaler? 23 A. I don't recall the 24 different, you know, components involved.</p>
<p style="text-align: right;">Page 375</p> <p>1 don't know. I don't know. It would be 2 speculation what it is. I don't remember 3 what it is. 4 Q. Fair enough. I want to go 5 back to the beginning of that paragraph, 6 on the first page, where you talked about 7 possibly the running of promotion to 8 focus on retail pull-through from the 9 wholesaler? 10 A. Yes. 11 Q. You were starting to explain 12 what that was. Can you just explain to 13 me, again, in layman's terms what that 14 kind of promotion would have looked like? 15 A. You know, it was pretty 16 simple. We would have probably paid for 17 announcements that the product's 18 available down to the retail. It's 19 pretty simple basic stuff. You know, 20 it's here. 21 It could have been there was 22 mail order. You know, you can send 23 notice through the mail. There's PDQ or 24 PharmAlert or whatever that went out to</p>	<p style="text-align: right;">Page 377</p> <p>1 It's a long time ago. I mean, I don't 2 know. Normally we would have -- we would 3 have paid for it. So I don't know who 4 would have done it. Okay. 5 Q. From time to time, did Endo 6 run promotions through the wholesalers to 7 the retailers? 8 A. Very -- it wasn't common. 9 Okay. This was a new product launch, and 10 they wanted to make sure the product was 11 stocked. 12 Q. That was -- that was 13 important to make the launch successful, 14 right? 15 A. Yes. Stocking is important 16 to making the launch successful. 17 Q. I think we -- okay. 18 And just one more piece of 19 terminology, again, for those who are not 20 familiar with the pharmaceutical 21 industry. Can you explain what you meant 22 by pull-through? 23 A. Pull-through is a term we -- 24 term used to refer of pulling from the</p>

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<p>1 wholesaler distribution centers to the 2 respective pharmacies. So the product is 3 pulled from the wholesaler through to the 4 pharmacies, where the product is 5 dispensed and adjudicated at the point of 6 sale. 7 Q. Okay. 8 MS. SCULLION: Can I have 9 Tab 9, please. 10 (Document marked for 11 identification as Exhibit 12 Endo-Stevenson-28.) 13 BY MS. SCULLION: 14 Q. I'll hand you what's been 15 marked as Exhibit Number 28. And 16 Exhibit 28 is Bates-stamped 17 ENDO-OPIOID_MDL-03924784. And do you see 18 that Exhibit 28 begins with an e-mail, 19 again, from you to David Kerr, and this 20 time it's dated April of 2006? 21 A. Yes. 22 Q. And you state, "Attached is 23 P&amp;L for oxycodone ER at McKesson." 24 A. Yes.</p>	<p>1 for November 2005, but then 2 December 2005, an amount for 2006, and a 3 total. 4 What does account value 5 refer to? 6 A. It would be net sales, I 7 think. 8 Q. Okay. Next line says 9 corporate rebate. What's the corporate 10 rebate? 11 A. It was a standard rebate 12 that they would have received that was, 13 you know, for -- for -- it was just a 14 rebate program that we had. 15 Q. Did -- it says corporate 16 rebate. Did some customers get it and 17 other customers did not? 18 A. Every -- I think every 19 generic customer got a corporate rebate. 20 Q. Okay. Is there any reason 21 that it's just not built into the price 22 and lowering the price? 23 MS. VANNI: Object to form. 24 THE WITNESS: It was</p>
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<p>1 Q. Is that right? 2 A. Yes. 3 Q. Okay. And again, oxycodone 4 ER, that was a generic version of 5 OxyContin, right? 6 A. Yes. 7 Q. Okay. A product that you 8 actually had P&amp;L responsibility for, 9 right? 10 A. Yes. 11 Q. Okay. And let's go to 12 this -- first page of the actual exhibit 13 is entitled "McKesson Summary." Are you 14 on that? 15 A. Yes. 16 Q. Okay. And I'll ask you to 17 help me walk through and understand some 18 of the pieces in this summary, to make 19 sure I understand it. 20 So it says at the top, 21 McKesson financial value to Endo. I'm 22 looking at this -- this first box here. 23 Where it says account value. 24 There's an amount listed for -- nothing</p>	<p>1 designed to show what the net 2 sales were before any rebates. So 3 we -- we broke out anything after 4 net sales that -- on -- on how to 5 get down to the bottom line, in 6 this case net revenue. 7 So rather than say it's all 8 in net sales, someone is going to 9 ask the question, well, how much 10 is a rebate. 11 So rather than -- you know, 12 we broke it out for ease of -- so 13 every -- you know, all the 14 components were known. 15 BY MS. SCULLION: 16 Q. Okay. And let's -- again, 17 let's just make sure we are talking the 18 same language. What is your 19 understanding of how net sales were 20 determined, when you talked about net 21 sales there? 22 A. Well, net sales -- 23 Q. Net of what? 24 A. Yeah, net sales, you start</p>



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<p style="text-align: right;">Page 382</p> <p>1 off with gross sales and you work down to</p> <p>2 net sales.</p> <p>3 Q. But net of what? They</p> <p>4 weren't net of rebates. They were net of</p> <p>5 what?</p> <p>6 A. No, no. Net sales would</p> <p>7 be -- net sales would be -- you know,</p> <p>8 that's why I'm -- I don't really --</p> <p>9 account value could be gross sales for</p> <p>10 all -- I mean, the idea -- normally these</p> <p>11 things are the things that would come</p> <p>12 out of -- down -- so I'm sorry. I didn't</p> <p>13 see net revenue.</p> <p>14 So these are gross --</p> <p>15 account value I think would be gross</p> <p>16 sales.</p> <p>17 Q. Okay.</p> <p>18 A. And then gross sales you</p> <p>19 have these deductions, okay, to --</p> <p>20 starting off there with corporate rebate.</p> <p>21 Q. Okay. And you explained</p> <p>22 what that was. What was PSR?</p> <p>23 A. Product specific rebate.</p> <p>24 Q. And just, can you explain</p>	<p style="text-align: right;">Page 384</p> <p>1 associated though, to the initial</p> <p>2 stocking then?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Next one says off</p> <p>5 invoice. What's that?</p> <p>6 A. We may -- it may have been</p> <p>7 in order to get the McKesson business</p> <p>8 that we gave some percentage off their</p> <p>9 original invoice, which would have been</p> <p>10 at WAC.</p> <p>11 Q. And just so you -- can you</p> <p>12 explain what WAC is?</p> <p>13 A. Wholesale acquisition cost.</p> <p>14 Q. Okay. So that would be an</p> <p>15 additional discount --</p> <p>16 A. Yes.</p> <p>17 Q. -- in addition to the</p> <p>18 rebate, and the product specific rebate,</p> <p>19 then there could be another specific</p> <p>20 negotiated discount off of invoice per --</p> <p>21 is it per wholesaler you negotiated?</p> <p>22 A. Yes. And it's for the</p> <p>23 launch. So it goes -- it's just stocking</p> <p>24 allowance and off invoice is associated</p>
<p style="text-align: right;">Page 383</p> <p>1 what that was?</p> <p>2 A. On some products we had a</p> <p>3 product specific rebate when they -- you</p> <p>4 know, for stocking -- for -- for having</p> <p>5 us in their -- in their program.</p> <p>6 Q. And would that vary from</p> <p>7 product to product?</p> <p>8 A. It could.</p> <p>9 Q. Okay. And then you have,</p> <p>10 the next line is stocking allowance. Can</p> <p>11 you just explain again for someone who is</p> <p>12 not familiar with the industry what that</p> <p>13 would be?</p> <p>14 A. Normally when you launch a</p> <p>15 product you give the customer a stocking</p> <p>16 allowance. If they bring in so much</p> <p>17 product, they get a stocking allowance</p> <p>18 for the expense of bringing it in and</p> <p>19 distributing it to the DCs. That's why,</p> <p>20 you know, it's important that you pay a</p> <p>21 stocking allowance, you want to make sure</p> <p>22 your product's out and to the forward</p> <p>23 DCs, so...</p> <p>24 Q. Okay. And it's only</p>	<p style="text-align: right;">Page 385</p> <p>1 with the launch only.</p> <p>2 Q. Okay. And then next line</p> <p>3 says, "Sales out rebate equals six</p> <p>4 months' units."</p> <p>5 Can you explain that?</p> <p>6 A. We had a program that if</p> <p>7 they achieved -- you know, if they</p> <p>8 achieved so much in sales out, which was</p> <p>9 normally, again, a function of -- it was</p> <p>10 a way to make sure their forward DCs were</p> <p>11 stocked, that they would get an</p> <p>12 additional -- additional performance</p> <p>13 rebate based on sales out.</p> <p>14 Q. Okay. And then the -- and</p> <p>15 that -- that sales out rebate here was</p> <p>16 \$9 million for 2006 it says. Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you have any</p> <p>20 understanding of how that \$9 million</p> <p>21 relates to six months' units? It says</p> <p>22 six months' units. I'm trying to</p> <p>23 understand.</p> <p>24 A. It would be six months'</p>

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<p>1 units times -- times their net price, 2 and, you know, that's -- that's what it 3 was. I don't know what their net price 4 was. But it would be -- that's why it 5 says equal to six months of units. 6 Q. Okay. Okay. So you -- I 7 mean, are you effectively giving them six 8 months worth of units for free -- 9 A. No, no, no. 10 Q. -- or just -- just at the 11 net price? 12 A. No. To be clear, we 13 didn't -- we didn't do free goods. 14 Q. Okay. 15 A. All right. We -- when they 16 bought -- when they -- the stick when 17 they bought we -- we established based on 18 their forecast of demand what six months 19 of units were. 20 Q. Right. 21 A. And when they attained that, 22 we gave them a rebate. 23 Q. Okay. But it wasn't a 24 rebate for the entire price, right?</p>	<p>1 We -- everybody does it the same way. 2 You normally take a charge to the P&amp;L 3 based on what your historic rate is of 4 returns. It's normally 1 1/2 percent, 5 2 percent, whatever it may be that you're 6 experiencing, and you just take a charge 7 to the P&amp;L to cover for any -- any 8 returns so there's no surprises. 9 Q. Okay. And what's the 10 reference to Medicaid there? 11 A. Medicaid is the charge that 12 you pay Medicare rebates. Medicare 13 rebates get put in there, it's another 14 charge that you pay. Generics paid I 15 think at the time 11 percent, you know, 16 is my recollection. 17 So that's a charge that you 18 pay because it's a charge to the P&amp;L. 19 Q. Okay. And that's -- when 20 you say it's a charge you pay, you are 21 paying it to McKesson? 22 A. No, no, no. We're -- 23 Q. You're paying it to the 24 government?</p>
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<p>1 A. It wasn't a rebate for what? 2 I'm sorry. 3 Q. The entire price for those 4 six months' units. 5 A. I'm sorry, I don't follow 6 the question. 7 Q. That's okay. I'm asking, 8 the sales out rebate, that did -- did 9 that equal the actual cost to them for 10 those six months' units? 11 A. No. Their cost would have 12 been at WAC. It would have been based 13 on -- my recollection is it would have 14 been based on net price. 15 Q. Okay. Got it. 16 And then the next line is 17 returns, Medicaid, and cash discount. Do 18 you see that? 19 A. Yes. 20 Q. And that's just -- and 21 returns is, again, it's accounting for 22 actual returns, I assume, right? 23 A. It would have been -- it 24 would have been a charge to the P&amp;L.</p>	<p>1 A. -- we're paying it to the 2 government. 3 Q. Okay. Okay. 4 A. But it's based on products 5 sold to McKesson. 6 Q. Understood. I'm just trying 7 to make sure I understand how it all 8 flows together. 9 And then cash discount is, I 10 assume, just a discount for payments in 11 cash? 12 A. It's prompt payment terms. 13 Q. Okay. Got it. 14 Now, you explained in -- in 15 a prior exhibit that the marketing and 16 sales departments had this demand 17 generating -- these demand-generating 18 programs. We looked at that in your 19 earlier e-mail, right? 20 A. On the brand side. 21 Q. Right. Got it. Okay. 22 So on the generic side 23 though, there's still going to be 24 prescriptions coming into the pharmacies</p>

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<p style="text-align: right;">Page 390</p> <p>1 served by McKesson, correct?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. Okay. And as part of its</p> <p>6 relationship with the pharmacies,</p> <p>7 McKesson has responsibility to try and</p> <p>8 ensure those pharmacies can service their</p> <p>9 patients, right?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: I can't speak</p> <p>12 for McKesson.</p> <p>13 BY MS. SCULLION:</p> <p>14 Q. Okay. I'm just trying to</p> <p>15 understand why Endo would need to pay any</p> <p>16 monies to McKesson to, I think you</p> <p>17 explained, try to make sure that the</p> <p>18 stock was getting out to the McKesson</p> <p>19 DCs. Isn't that just something McKesson</p> <p>20 would do as part of its business?</p> <p>21 MS. VANNI: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: No. They --</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: right;">Page 392</p> <p>1 competitive issue ongoing against our</p> <p>2 McKesson business that we had to respond</p> <p>3 to.</p> <p>4 Q. Okay. And that's one of the</p> <p>5 things I wanted to turn to. If you look</p> <p>6 at the next page of the exhibit, which</p> <p>7 has some of the, I think, backup detail</p> <p>8 to your summary on the first page we've</p> <p>9 been looking at.</p> <p>10 I'm just going down to the</p> <p>11 second box that says proposed pricing and</p> <p>12 rebates. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And in the third</p> <p>15 column from the left, it says contract</p> <p>16 price. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And just, can you explain to</p> <p>19 me, when it says contract price, who is</p> <p>20 the contract between? Who are the two</p> <p>21 parties?</p> <p>22 A. Endo and McKesson.</p> <p>23 Q. Okay. And I think you are</p> <p>24 explaining to me that one of the things</p>
<p style="text-align: right;">Page 391</p> <p>1 Q. Why not?</p> <p>2 A. Because if you -- you know,</p> <p>3 this was part of a competitive package,</p> <p>4 and we were not exclusive. There was an</p> <p>5 authorized generic that we competed</p> <p>6 against, IVAX, who had the Purdue Pharma</p> <p>7 product as a generic. And so we had to</p> <p>8 have a competitive offer. And so,</p> <p>9 basically, what this is about is, in</p> <p>10 order to get the McKesson business, we</p> <p>11 had to have a competitive offer and these</p> <p>12 were the components, to gain that -- to</p> <p>13 gain that business.</p> <p>14 Q. Got it. Okay.</p> <p>15 A. And you can see now, you</p> <p>16 know, what this is designed to show if I</p> <p>17 look across here, this is -- this is</p> <p>18 asking for new price authorization and I</p> <p>19 had a certain authority, current VP</p> <p>20 authorization level, that was me. And it</p> <p>21 was -- and SVP authorization level. So</p> <p>22 the price was declining. That's why I'm</p> <p>23 ask -- we need to have new levels,</p> <p>24 because we're -- obviously there's some</p>	<p style="text-align: right;">Page 393</p> <p>1 that you were doing was you had to meet a</p> <p>2 competitive pricing offer with respect to</p> <p>3 McKesson for oxycodone, at least at this</p> <p>4 time?</p> <p>5 A. It appears that way.</p> <p>6 Q. Okay. Let's go back to your</p> <p>7 summary page in this exhibit.</p> <p>8 A. Which --</p> <p>9 Q. The McKesson summary.</p> <p>10 A. Yes.</p> <p>11 Q. So, again, the first box at</p> <p>12 the top is summarizing the McKesson</p> <p>13 financial value to Endo. This is your</p> <p>14 attempt to summarize what the value is to</p> <p>15 Endo of this relationship as proposed,</p> <p>16 right?</p> <p>17 MS. VANNI: Objection.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Okay. And if you go over to</p> <p>21 the right-hand side of that box under</p> <p>22 total, you are explaining that the</p> <p>23 account value total for those periods was</p> <p>24 a little over \$34 million, right?</p>

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<p style="text-align: right;">Page 394</p> <p>1 A. On gross.</p> <p>2 Q. Right.</p> <p>3 A. On -- on gross, yeah.</p> <p>4 Q. That was the account value.</p> <p>5 After the various rebates and allowances,</p> <p>6 et cetera, the net revenue to Endo would</p> <p>7 be 11.4 -- about \$11.4 million, right?</p> <p>8 A. Almost 11.5. But yeah.</p> <p>9 Q. Okay. So pretty substantial</p> <p>10 decrease off of the gross, right?</p> <p>11 A. Yep. Yes.</p> <p>12 Q. Okay. And then the gross</p> <p>13 profit listed underneath would be just</p> <p>14 over \$6 million, right?</p> <p>15 A. Yes.</p> <p>16 Q. But still the gross profit</p> <p>17 percentage was 53 percent, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. All right. And then</p> <p>20 at the bottom of the page, you do the</p> <p>21 opposite analysis looking at the</p> <p>22 financial value of this proposed</p> <p>23 relationship to McKesson, right?</p> <p>24 A. Yes, our estimate.</p>	<p style="text-align: right;">Page 396</p> <p>1 launch incentives.</p> <p>2 Q. Right. So, and I think as</p> <p>3 you're pointing out, Endo is paying a</p> <p>4 substantial amount in connection with the</p> <p>5 launch, in this case, of generic</p> <p>6 OxyContin, right?</p> <p>7 MS. VANNI: Object to form.</p> <p>8 THE WITNESS: That's what</p> <p>9 was required in the competitive</p> <p>10 environment.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Okay. And so much so that</p> <p>13 the value to McKesson, estimated value to</p> <p>14 McKesson, of this proposed relationship</p> <p>15 was more than three times the estimated</p> <p>16 gross profit to Endo of this</p> <p>17 relationship?</p> <p>18 A. Well, just to be clear, all</p> <p>19 we could speak to is the amount of money</p> <p>20 we gave McKesson through rebates and</p> <p>21 discounts, et cetera. It was in no</p> <p>22 way -- in no way seeks to imply or</p> <p>23 implies what the actual financial value</p> <p>24 to McKesson is in their internal P&amp;L.</p>
<p style="text-align: right;">Page 395</p> <p>1 Q. Okay. And the estimate of</p> <p>2 the total value to McKesson for this same</p> <p>3 period, the period in which gross profit</p> <p>4 to Endo was going to be a little over</p> <p>5 \$6 million. The value to McKesson was</p> <p>6 going to be almost \$20 million, right?</p> <p>7 A. Yes, because our price was</p> <p>8 declining as you can see in the middle</p> <p>9 section here. Our level, what we were</p> <p>10 anticipating was to have to go to a lower</p> <p>11 price. And, therefore, you know, we had</p> <p>12 paid these -- these different rebates, et</p> <p>13 cetera, out, the stocking, et cetera,</p> <p>14 out.</p> <p>15 So the pricing was -- it was</p> <p>16 showing that while it still made sense</p> <p>17 from a profitability standpoint for us,</p> <p>18 you know, management wanted to see, okay,</p> <p>19 what was -- what has McKesson received</p> <p>20 from us.</p> <p>21 So obviously as the price</p> <p>22 declines, you know, that number is going</p> <p>23 to increase, because you're going to take</p> <p>24 in less revenue, but you paid out these</p>	<p style="text-align: right;">Page 397</p> <p>1 There's no way for us to know that.</p> <p>2 Q. Okay. Okay.</p> <p>3 MS. SCULLION: Can I have</p> <p>4 Tab 52, please. Make sure we have</p> <p>5 the same document. Because these</p> <p>6 can get a little bit tricky.</p> <p>7 (Document marked for</p> <p>8 identification as Exhibit</p> <p>9 Endo-Stevenson-29.)</p> <p>10 BY MS. SCULLION:</p> <p>11 Q. I'll hand you what's been</p> <p>12 marked as Exhibit Number 29.</p> <p>13 And, Mr. Stevenson, if</p> <p>14 you'll turn to the second page of</p> <p>15 Exhibit 29, you'll see at the top, that</p> <p>16 it's entitled "Endo Contribution Margin</p> <p>17 Report - Period."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Now, I'll represent to you</p> <p>21 that this is a format of this data that</p> <p>22 was produced to us by Endo in this</p> <p>23 litigation in response to our request for</p> <p>24 financial reporting from Endo.</p>

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<p style="text-align: right;">Page 398</p> <p>1 And I just want to draw your 2 attention to this first page. You'll see 3 on the product line, indicates that 4 it's -- Endocet is the product, right? 5 A. Yes. 6 Q. Okay. And then we see a 7 number of lines in the chart. It starts 8 with the gross revenues and then goes 9 through a number of the line items that 10 we discussed when we were looking at the 11 McKesson summary. 12 Do you see that? 13 A. Yes. 14 Q. But there's -- there's a new 15 line item in here that we haven't 16 discussed in detail yet. We referred to 17 it earlier. That's the chargebacks. Do 18 you see that the fourth line down under 19 revenue? 20 A. Yes. 21 Q. It says chargebacks. Can 22 you explain what chargebacks were in this 23 context for -- context for Endocet? 24 A. Well, it's the same concept</p>	<p style="text-align: right;">Page 400</p> <p>1 was their contract price. And so if the 2 WAC was \$80, and the contract price was 3 \$40. There would be a \$40 chargeback 4 submitted to Endo to -- for the number -- 5 for the number of bottles sold -- sold to 6 that contract number. 7 Q. Okay. Again, let me see if 8 I can just break that down to make sure I 9 actually understand how that all worked, 10 because it was a lot. It was very 11 helpful. But so, again, the WAC is the 12 wholesale acquisition cost, right? 13 A. Yes. 14 Q. And that's the price across 15 the board, the same WAC across the board 16 that Endo sets for a product, right? 17 A. Yes. 18 Q. Okay. And then the contract 19 price you referred to, in the context of 20 a product like Endocet, would that be the 21 contract between Endo and -- let's start 22 with the retail pharmacy chain? 23 A. It wouldn't be to the retail 24 pharmacy chain. It would be to the</p>
<p style="text-align: right;">Page 399</p> <p>1 for any product, whether it's an opioid 2 or not. It's the difference between the 3 WAC, the wholesale acquisition cost, and 4 the contract price -- 5 Q. Okay. 6 A. -- for the number of bottles 7 sold through their -- whatever the 8 respective wholesaler's program was to 9 the independent pharmacists. 10 Q. Okay. 11 A. Or whatever -- not only -- I 12 shouldn't say independent pharmacists. 13 Whatever -- whoever they sold out to, if 14 the contract was loaded, there was a 15 contract price. The WAC was the WAC. 16 And the respective contract price was 17 whatever the respective contract price 18 was for Contract 1, 2, 3, 4, 5. And then 19 there was another -- another pharmacy 20 chain or whatever might have been 21 Contract 1, 2, 3, 4, 5, 6, however it was 22 numbered. 23 And every -- every 24 respective contract had a price. That</p>	<p style="text-align: right;">Page 401</p> <p>1 wholesaler. The chargeback goes to the 2 wholesaler, not to the -- 3 Q. The contract price is the 4 price that the wholesaler has contracted 5 for? 6 A. No. No. It's the price 7 that Endo has with the respective chain 8 or wholesaler program. 9 Q. Okay. 10 A. So McKesson had One Stop, or 11 whatever it was called in those days. 12 ABC had a different program. Cardinal 13 had -- I forget, Generic Alliance. I 14 forget all the names now. 15 And they -- if a contract 16 was loaded for those programs, it was 17 given a unique number. And its price was 18 loaded. The wholesaler bought it at WAC. 19 And they sent you a chargeback for the 20 number of bottles sold -- 21 Q. Through that program? 22 A. -- through that program 23 based on what the WAC price was minus 24 what the contract price. That was called</p>



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<p style="text-align: right;">Page 402</p> <p>1 the chargeback.</p> <p>2 Q. Okay. And when they were</p> <p>3 calculating the chargeback, that had to</p> <p>4 be based on that wholesaler's sales</p> <p>5 through that particular program under</p> <p>6 that contract price, right?</p> <p>7 A. Number.</p> <p>8 Q. Okay. And did Endo get data</p> <p>9 telling it how those chargebacks were</p> <p>10 calculated? In other words, to see which</p> <p>11 sales through the program justified the</p> <p>12 chargeback that the wholesaler was asking</p> <p>13 for?</p> <p>14 MS. VANNI: Object to form.</p> <p>15 THE WITNESS: Endo got</p> <p>16 chargeback data that was</p> <p>17 primarily -- matter of fact, as</p> <p>18 far as I know, exclusively used</p> <p>19 for financial verification.</p> <p>20 That's who -- that's what</p> <p>21 chargeback data was for, to</p> <p>22 validate claims.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. Right. And let me make</p>	<p style="text-align: right;">Page 404</p> <p>1 which is a shelf stock.</p> <p>2 So the price declines in the</p> <p>3 market, and they have 100 bottles</p> <p>4 on the shelf, they want to have</p> <p>5 the bottles on the shelf be the</p> <p>6 same price as their new price.</p> <p>7 Okay. And as a result of</p> <p>8 that you would get a claim for</p> <p>9 that, and they would say, "We had</p> <p>10 900 bottles on the shelf when the</p> <p>11 price change went into affect."</p> <p>12 And if it's a direct account, you</p> <p>13 can validate that because you know</p> <p>14 from what you shipped them.</p> <p>15 So if it's a chain with a</p> <p>16 vault, you can validate that. If</p> <p>17 it's a chain or customer without a</p> <p>18 vault and they make that claim, to</p> <p>19 pass an audit which is always</p> <p>20 important to do, and verify that</p> <p>21 the claim was a legitimate claim,</p> <p>22 finance would use chargeback data</p> <p>23 to validate the claim.</p> <p>24 BY MS. SCULLION:</p>
<p style="text-align: right;">Page 403</p> <p>1 sure. The chargeback data that Endo got,</p> <p>2 it wouldn't just be a summary of the</p> <p>3 chargeback. It would be actually, like</p> <p>4 you said, a validation of all the sales</p> <p>5 from the wholesaler out that justified</p> <p>6 that chargeback?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So would that be</p> <p>9 another piece of data that Endo had about</p> <p>10 its customers' customers?</p> <p>11 MS. VANNI: Object to form.</p> <p>12 THE WITNESS: Yes, it would</p> <p>13 be another data point, yes.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. Okay. And you said that was</p> <p>16 used in finance to verify the claims,</p> <p>17 right?</p> <p>18 MS. VANNI: Objection.</p> <p>19 THE WITNESS: It was</p> <p>20 especially used to validate claims</p> <p>21 for customers' customers. So if</p> <p>22 there was -- there's a line on</p> <p>23 here called "price equalization,"</p> <p>24 for example, which refers to --</p>	<p style="text-align: right;">Page 405</p> <p>1 Q. Okay. Thank you. If you</p> <p>2 can turn a few pages back -- let's see.</p> <p>3 One, two, three, four, five, six, seven.</p> <p>4 There's a page that lists the product at</p> <p>5 the top at Numorphan.</p> <p>6 A. Numorphan, okay.</p> <p>7 MS. VANNI: Sorry, Counsel,</p> <p>8 what page was that?</p> <p>9 MS. SCULLION: Well, it</p> <p>10 doesn't have page numbers.</p> <p>11 THE WITNESS: You have to</p> <p>12 find it.</p> <p>13 MS. SCULLION: It's about</p> <p>14 seven pages back.</p> <p>15 THE WITNESS: Okay, yeah.</p> <p>16 MS. SCULLION: They are</p> <p>17 hopefully in alphabetical order.</p> <p>18 THE WITNESS: It's there.</p> <p>19 MS. VANNI: Gotcha.</p> <p>20 BY MS. SCULLION:</p> <p>21 Q. Okay. You are on the -- on</p> <p>22 the page that has the product listed as</p> <p>23 Numorphan?</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 406</p> <p>1 Q. Okay. And you see that for</p> <p>2 this fiscal year, it's 2006, it does</p> <p>3 indicate that year-to-date there were</p> <p>4 392,000, a little bit more, in sales of</p> <p>5 Numorphan during that year?</p> <p>6 A. That's what it shows, yeah.</p> <p>7 Q. Okay. And again you recall</p> <p>8 that we saw the name Numorphan come up in</p> <p>9 the article about oxymorphone abuse,</p> <p>10 correct?</p> <p>11 MS. VANNI: Object to form.</p> <p>12 THE WITNESS: Yes, I recall</p> <p>13 the article.</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. Okay. Do you have any</p> <p>16 understanding about what Numorphan</p> <p>17 product is referred to in this</p> <p>18 contribution margin report?</p> <p>19 A. I have no idea.</p> <p>20 Q. Okay. Let's go -- turn</p> <p>21 another page back and you'll see at the</p> <p>22 top, the product Opana ER.</p> <p>23 A. I see Opana. Is there</p> <p>24 supposed to be an Opana ER?</p>	<p style="text-align: right;">Page 408</p> <p>1 Q. I will tell you in this set</p> <p>2 it's the only oxycodone page there is.</p> <p>3 So that's my understanding.</p> <p>4 A. Okay.</p> <p>5 Q. Okay. So again, let's look</p> <p>6 down the line for price -- sorry, for</p> <p>7 sales promotions. And you'll see, just</p> <p>8 for Period 1, 2.6 million, a little bit</p> <p>9 more. Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What was sales promotions?</p> <p>12 A. I'm sure it was -- you know,</p> <p>13 had to do with stocking.</p> <p>14 Q. So that would be --</p> <p>15 A. That's the only promotion</p> <p>16 that we would ever -- you know, they put</p> <p>17 it into a convenient P&amp;L line. But</p> <p>18 that's only -- we didn't promote to</p> <p>19 doctors. So generics do not promote to</p> <p>20 physicians, ever.</p> <p>21 Q. Just going down a few more</p> <p>22 lines. There's a reference to</p> <p>23 distribution fees?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 407</p> <p>1 Q. Yeah. If you go to the next</p> <p>2 page, you'll see an Opana ER.</p> <p>3 A. Okay.</p> <p>4 Q. All right. And here it's</p> <p>5 just representing that the stub last five</p> <p>6 months of 2006 for Opana ER. Do you see</p> <p>7 that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And here, I just want</p> <p>10 to ask you about a few more of the -- of</p> <p>11 the lines indicated on the left-hand</p> <p>12 side. We talked about a lot of them.</p> <p>13 You mentioned price</p> <p>14 equalization. The next line is sales</p> <p>15 promotions. What was sales promotions?</p> <p>16 A. I don't know. I wasn't</p> <p>17 involved with Opana or Opana ER, other</p> <p>18 than stocking. That's my only</p> <p>19 involvement.</p> <p>20 Q. You know what, fair enough.</p> <p>21 Let's go -- let's go to the next page</p> <p>22 then, which is oxycodone.</p> <p>23 A. And I assume this is</p> <p>24 oxycodone ER; is that correct?</p>	<p style="text-align: right;">Page 409</p> <p>1 Q. And are -- are those the</p> <p>2 percentage fees under the distributor --</p> <p>3 distributor services agreement we talked</p> <p>4 about earlier?</p> <p>5 A. I -- I'm assuming. You</p> <p>6 know, I'm assuming that's what it is. I</p> <p>7 don't know -- I don't know what -- I</p> <p>8 haven't seen these P&amp;Ls before, so...</p> <p>9 Q. Okay. And then two more</p> <p>10 lines down underneath that is an</p> <p>11 administration fee. Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What was administration fee</p> <p>14 separate from distribution fee?</p> <p>15 A. You know, I don't recall the</p> <p>16 specifics. It was some customers or</p> <p>17 wholesaler -- whoever it was, they had --</p> <p>18 they called it an admin fee? I don't</p> <p>19 remember what it was all for. It was</p> <p>20 just another fee, another charge, you</p> <p>21 know, cost of doing business on the</p> <p>22 account.</p> <p>23 Q. From your perspective it's</p> <p>24 another thing you had to compete on for</p>

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<p style="text-align: right;">Page 410</p> <p>1 the account?</p> <p>2 A. Well --</p> <p>3 MS. VANNI: Object to form.</p> <p>4 THE WITNESS: Yes. It's</p> <p>5 another thing that we had to -- at</p> <p>6 the end of the day you had to get</p> <p>7 to a net price. Okay. So we</p> <p>8 listed these things out in order</p> <p>9 to make sure all the different</p> <p>10 deductions were accounted for in</p> <p>11 order that we get to a net price.</p> <p>12 When we know the net price then we</p> <p>13 know we can calculate our</p> <p>14 profitability. So when you take</p> <p>15 all the deducts out and you get to</p> <p>16 a net price, and you take off your</p> <p>17 cost of goods, you now can</p> <p>18 determine your profitability.</p> <p>19 BY MS. SCULLION:</p> <p>20 Q. Okay. So from your</p> <p>21 perspective it didn't really much matter</p> <p>22 which of the deducts it went into, as</p> <p>23 long as, in the end, you got to a net</p> <p>24 price that you can make a deal on?</p>	<p style="text-align: right;">Page 412</p> <p>1 marked Exhibit 30. And Exhibit 30 is</p> <p>2 Bates-stamped ENDO-OPIOID_MDL-00877265.</p> <p>3 Mr. Stevenson, drawing your</p> <p>4 attention to the bottom e-mail. It's</p> <p>5 from a Chris Cresswell to you, Ron</p> <p>6 Wickline, and Mark Gossett in May of</p> <p>7 2006. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And the subject is new NCPA</p> <p>10 pharmacist research study. "Are you</p> <p>11 leveraging the pharmacist to grow your</p> <p>12 marketplace."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 MS. VANNI: Market share.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. Sorry.</p> <p>18 A. Market share, I'm sorry.</p> <p>19 Q. Market share. I didn't read</p> <p>20 it correctly.</p> <p>21 "Are you leveraging the</p> <p>22 pharmacist to grow your market share?"</p> <p>23 What was NCPA?</p> <p>24 A. National -- it was basically</p>
<p style="text-align: right;">Page 411</p> <p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: As long as we</p> <p>3 got to net price that was</p> <p>4 profitable and attractive to the</p> <p>5 company. And if it wasn't</p> <p>6 attractive to the company, we</p> <p>7 would have walked away.</p> <p>8 BY MS. SCULLION:</p> <p>9 Q. Sure. Understood. But</p> <p>10 again -- again, you get to a net price</p> <p>11 that you would be willing to make a deal</p> <p>12 on?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 MS. SCULLION: Can I have</p> <p>16 Tab 11, please.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. You can put that aside.</p> <p>19 Thank you very much.</p> <p>20 (Document marked for</p> <p>21 identification as Exhibit</p> <p>22 Endo-Stevenson-30.)</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. I'll hand you what's been</p>	<p style="text-align: right;">Page 413</p> <p>1 the independent pharmacy trade</p> <p>2 association. They are equivalent of</p> <p>3 NACDS. And I forget what the letters</p> <p>4 stand for.</p> <p>5 Q. Okay.</p> <p>6 A. National Community</p> <p>7 Pharmacists Association. I knew it would</p> <p>8 come to me.</p> <p>9 Q. And did you know</p> <p>10 Mr. Cresswell?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. Not that I recall. I mean I</p> <p>14 could have met him.</p> <p>15 Q. Now, in his e-mail</p> <p>16 Mr. Cresswell is outlining a few products</p> <p>17 and services, research programs, and</p> <p>18 in -- in his last paragraph what he calls</p> <p>19 tools.</p> <p>20 What's your understanding</p> <p>21 of -- of what it is that Mr. Cresswell</p> <p>22 was describing to you just generally?</p> <p>23 A. This was a long time ago. I</p> <p>24 don't really -- I mean, I don't know what</p>

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<p>1 it is. I don't remember what it is. It  2 was, you know, a national -- you know,  3 the NCPA was always -- you know, was  4 interested in trying to -- they had  5 programs that they designed for  6 independent pharmacists. And they were  7 looking for people that wanted to  8 participate. It was in my -- I just sent  9 it off to them as another, are you  10 interested in this, FYI, are you  11 interested in this, something we may want  12 to consider. That's -- that's what I see  13 here.</p> <p>14 Q. And so I think you are  15 talking to the -- the top e-mail where  16 you're passing along to Mr. Wickline and  17 Mr. Gossett, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And as you say, you say,  20 "NCPA serves independent pharmacists. We  21 should evaluate which of these programs  22 we find appealing for oxymorphone  23 launch," correct?</p> <p>24 A. Yes.</p>	<p>1 MS. VANNI: Object to form.  2 THE WITNESS: It would be  3 important just so the -- if, you  4 know, in this case it was an  5 opioid, so that it was coming out  6 and whatever the education program  7 is, it could have been a  8 noncontrolled drug. You know, any  9 time you had a product launch,  10 they wanted to say how they could  11 help you, and of course there was  12 a fee associated with that.</p> <p>13 So that's why -- you know,  14 it should have said up above, if  15 any of these programs we find  16 appealing. Because there's a cost  17 associated with that. And  18 eventually somebody in sales, and  19 above, Mark Gossett was my boss at  20 the time, he would have to decide  21 whether or not they were  22 interested in spending the money  23 or found these programs  24 attractive.</p>
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<p>1 Q. And so why would Endo even  2 potentially find a program offered by  3 NCPA for independent pharmacists  4 appealing to the oxymorphone launch?  5 What would the purpose be in such a  6 program?</p> <p>7 MS. VANNI: Object to form.  8 THE WITNESS: In reading the  9 second, the bottom e-mail, it  10 talks about tutorial. It -- a  11 pharmacist education solution:  12 So what this would be, would  13 be part of the education program.  14 And what NCPA is offering is a --  15 appears to be a program for new  16 launches of how to educate the  17 pharmacists about the product.  18 That kind of thing is what I'm  19 reading here.</p> <p>20 BY MS. SCULLION:  21 Q. And how would educating a  22 pharmacist about the product, why would  23 that be important as part of a launch for  24 a product like oxymorphone?</p>	<p>1 Most of the time, to my  2 knowledge, my recollection is they  3 didn't. You know, they didn't  4 engage in this.</p> <p>5 BY MS. SCULLION:  6 Q. Okay. Do you recall whether  7 Endo, in fact, engaged in such a  8 program --</p> <p>9 A. I don't recall.  10 Q. -- for oxymorphone?  11 A. I don't recall.  12 Q. Fair enough.</p> <p>13 MS. SCULLION: Can I have  14 Tabs 2 and 4, please.  15 (Document marked for  16 identification as Exhibit  17 Endo-Stevenson-31.)</p> <p>18 BY MS. SCULLION:  19 Q. Let me hand you what's been  20 marked as Exhibit 31. And Exhibit 31 is  21 Bates-stamped ENDO-OPIOID_MDL-02255008.  22 And, Mr. Stevenson, do you  23 see that Exhibit 31 is a series of  24 e-mails between yourself and</p>

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<p style="text-align: right;">Page 418</p> <p>1 Miss Kitlinski in February of 2004?</p> <p>2 A. Yeah -- yes.</p> <p>3 Q. Okay. Again, let's start at</p> <p>4 the back of the exhibit with -- beginning</p> <p>5 at the chain of the e-mails. And the</p> <p>6 subject matter of her e-mail is urgent</p> <p>7 regarding opioid education materials,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And she says to you</p> <p>11 she wants to "follow up on the opioid</p> <p>12 education initiatives we discussed a few</p> <p>13 weeks ago." She goes on to explain, "I</p> <p>14 know this is a high priority." And that</p> <p>15 she can't sign any CE agreements until</p> <p>16 the budget has been approved.</p> <p>17 Do you see that?</p> <p>18 A. Which paragraph are we in?</p> <p>19 Q. I was just reading the first</p> <p>20 two paragraphs of her e-mail.</p> <p>21 A. Oh. Oh, yes. I'm sorry,</p> <p>22 yes.</p> <p>23 Q. That's okay.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 420</p> <p>1 designed for CE programs. And the rest</p> <p>2 would have been for reminder ads and</p> <p>3 things like that.</p> <p>4 Q. Okay.</p> <p>5 A. In this case, also for --</p> <p>6 I'm guessing for mailers, in addition</p> <p>7 to -- that the product was available.</p> <p>8 Most of it was for CE programs which were</p> <p>9 very expensive.</p> <p>10 Q. Okay. And so just again to</p> <p>11 break that down. There was a budget for</p> <p>12 promotion, and in your mind a large part</p> <p>13 of that was -- of that budget was for CE</p> <p>14 programs, right?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: Correct.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. And then in addition, I</p> <p>19 think you said there could have been</p> <p>20 some -- some mailers and some ads, right?</p> <p>21 A. There could have been, yeah.</p> <p>22 The problem with -- the problem with</p> <p>23 the -- having a -- the problem with a</p> <p>24 mailer for -- for an opioid drug is that</p>
<p style="text-align: right;">Page 419</p> <p>1 Q. Do you see that? Okay. And</p> <p>2 CE agreements, those are continuing</p> <p>3 education agreements, right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then let's go up</p> <p>6 to the -- your response e-mail. It</p> <p>7 actually begins at the very bottom of the</p> <p>8 first page, but the text is at the top of</p> <p>9 this --</p> <p>10 A. Okay.</p> <p>11 Q. -- second page. And you are</p> <p>12 addressing this to Steven?</p> <p>13 A. Andrzejewski.</p> <p>14 Q. Andrzejewski.</p> <p>15 You say, "Steve, when we did</p> <p>16 the original 2004 budget, as you</p> <p>17 requested, 500,000 to be budgeted for</p> <p>18 promotion." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. That was a promotion budget</p> <p>21 for generic OxyContin, right?</p> <p>22 A. It was -- again, not to</p> <p>23 physicians. It was designed, as it says</p> <p>24 there, a large part of this money was</p>	<p style="text-align: right;">Page 421</p> <p>1 there's so much information that it's not</p> <p>2 a simple one page. It's multiple pages.</p> <p>3 And of course you get charged for every</p> <p>4 page in the mailer.</p> <p>5 So, you know, what could be</p> <p>6 10,000 for one page can very quickly</p> <p>7 balloon up to a big number, you know.</p> <p>8 Q. Okay.</p> <p>9 A. So that doesn't mean -- I</p> <p>10 don't recall if we did it or not. I'd</p> <p>11 like to point out this was part of the</p> <p>12 problem in this case. This was 2004. We</p> <p>13 didn't get approval for the product until</p> <p>14 June of, I think, '05. Part of it was</p> <p>15 the, you know, the estimation as to when</p> <p>16 we were going to get approval. We didn't</p> <p>17 want to spend the money before we had --</p> <p>18 we wanted to make sure we had a good</p> <p>19 feeling that we were going to get</p> <p>20 approval, not only approval but through</p> <p>21 the legal process --</p> <p>22 Q. The patent litigation?</p> <p>23 A. -- approval post legal --</p> <p>24 the patent litigation. It was unclear</p>



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<p style="text-align: right;">Page 422</p> <p>1 when that was going to end. So</p> <p>2 obviously, these folks that are</p> <p>3 identified, U.S. Pharmacists, PharmAlert,</p> <p>4 PDQ, you know, they're pushing for</p> <p>5 business all the time.</p> <p>6 Q. Understood. And then, as</p> <p>7 you said, a large part of the promotion</p> <p>8 budget was set aside for CE programs, it</p> <p>9 says, to support 3218. That's the</p> <p>10 generic oxy, right?</p> <p>11 A. That's generic -- that's</p> <p>12 oxycodone ER, yes.</p> <p>13 Q. Okay. And then -- and then</p> <p>14 you go onto explain in the next paragraph</p> <p>15 that, "Part of our RMP for 3218 calls for</p> <p>16 a pharmacist education program."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And the RMP there, that's</p> <p>20 referring to the risk management plan,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And so -- okay. You then,</p> <p>24 as you say, explained that from a</p>	<p style="text-align: right;">Page 424</p> <p>1 generally, is that right?</p> <p>2 MS. VANNI: Object to form.</p> <p>3 THE WITNESS: Yes, it was</p> <p>4 not about -- normally these people</p> <p>5 did not run -- they did not want</p> <p>6 to view themselves in U.S.</p> <p>7 Pharmacists as a promotional tool</p> <p>8 for your product.</p> <p>9 BY MS. SCULLION:</p> <p>10 Q. Okay.</p> <p>11 A. They were more than happy to</p> <p>12 have a -- run a CE on an overall topic,</p> <p>13 like narcotic analgesics. And so yes, I</p> <p>14 would say that's accurate.</p> <p>15 Q. Okay. Now let's go to the</p> <p>16 first page of Exhibit 31.</p> <p>17 Mr. Andrzejewski agrees with you in terms</p> <p>18 of your approach to the budget and use of</p> <p>19 the funds, right?</p> <p>20 A. Yes. Apparent -- yes.</p> <p>21 Q. Okay. And Ms. Kitlinski</p> <p>22 then responds to all -- to both of you in</p> <p>23 her e-mail above saying, "Steve, George,</p> <p>24 many thanks for the prompt reply. I</p>
<p style="text-align: right;">Page 423</p> <p>1 budgetary standpoint you can't support</p> <p>2 individualized customer CE programs, such</p> <p>3 as the one for Walmart, one for CVS, et</p> <p>4 cetera, right?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: Correct. And</p> <p>7 it talks about Endo's policy calls</p> <p>8 for CE programs to be run by our</p> <p>9 clinical folks, which I testified</p> <p>10 to earlier.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Understood. And in that</p> <p>13 same paragraph, that you're looking at</p> <p>14 right now you explain that -- in the last</p> <p>15 two sentences, the CE programs themselves</p> <p>16 are not about 3218, but rather narcotic</p> <p>17 analgesics.</p> <p>18 Did I read that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. So if I understand, you were</p> <p>21 trying to say, look, these CE programs</p> <p>22 even though they can be paid for by the</p> <p>23 promotion budget for generic oxy, they're</p> <p>24 really about narcotic analgesics more</p>	<p style="text-align: right;">Page 425</p> <p>1 think your proposed path forward is the</p> <p>2 right way to go."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. She talks about</p> <p>6 needing to discuss prioritization of the</p> <p>7 initiatives.</p> <p>8 And in her last paragraph,</p> <p>9 she says, "My suggestion would be to move</p> <p>10 forward with developing one program now</p> <p>11 and initiate the others once launch</p> <p>12 decision is made."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And she explains, "George,</p> <p>16 this would allow us to utilize a portion</p> <p>17 of the budget for the opioid analgesic</p> <p>18 brochure that was also included in your</p> <p>19 presentation to the DEA."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And you recall that</p> <p>23 we looked at the RMP for generic</p> <p>24 oxycodone and the reference to a patient</p>

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<p style="text-align: right;">Page 426</p> <p>1 education brochure? Do you recall that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And if you go up to</p> <p>4 then your e-mail back, you're basically</p> <p>5 agreeing with Ms. Kitlinski's suggested</p> <p>6 approach, right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Great.</p> <p>9 MS. SCULLION: Can I have</p> <p>10 Tab 4, please.</p> <p>11 (Document marked for</p> <p>12 identification as Exhibit</p> <p>13 Endo-Stevenson-32.)</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. I'll hand you what's been</p> <p>16 marked as Exhibit 32. Exhibit 32 is</p> <p>17 Bates-stamped ENDO-OPIOID_MDL-02255384.</p> <p>18 And Mr. Stevenson, do you</p> <p>19 recognize Exhibit 32 as a series of</p> <p>20 e-mails concerning pharmacist educational</p> <p>21 initiative update in March of 2004?</p> <p>22 A. That's what it says.</p> <p>23 Q. Okay. Let's go to --</p> <p>24 actually, I apologize. We don't need to</p>	<p style="text-align: right;">Page 428</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Welcome back, Mr. Stevenson.</p> <p>3 Let me hand you what's been</p> <p>4 marked as Exhibit 33. And Exhibit 33 is</p> <p>5 Bates-stamped ENDO-OPIOID_MDL-02255803.</p> <p>6 Mr. Stevenson, do you</p> <p>7 recognize -- sorry, do you see that</p> <p>8 Exhibit 33 is an e-mail from Carey Aron</p> <p>9 to yourself and a few other folks in May</p> <p>10 of 2004?</p> <p>11 A. Yes.</p> <p>12 Q. And the subject matter here</p> <p>13 is opioid patient brochure - production</p> <p>14 ready. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. All right. And at the</p> <p>17 bottom of the e-mail you'll see Carey</p> <p>18 Aron is identified as the associate</p> <p>19 director of clinical development</p> <p>20 education and scientific affairs.</p> <p>21 Do you see that?</p> <p>22 A. For Endo.</p> <p>23 Q. Yes.</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 427</p> <p>1 do that one. That's okay. I apologize.</p> <p>2 MS. SCULLION: I think I</p> <p>3 have the wrong document there,</p> <p>4 because my numbers are not</p> <p>5 matching up.</p> <p>6 BY MS. SCULLION:</p> <p>7 Q. You know what? You can put</p> <p>8 this exhibit aside. We may or may not</p> <p>9 come back to it.</p> <p>10 MS. SCULLION: Don't worry</p> <p>11 about it. We'll move on. That's</p> <p>12 all right.</p> <p>13 Can I have Tab 69, please.</p> <p>14 Before we even start, do you</p> <p>15 want to take a quick break? Take</p> <p>16 a quick break and come back in.</p> <p>17 THE VIDEOGRAPHER: Off the</p> <p>18 record, 4:11.</p> <p>19 (Short break.)</p> <p>20 THE VIDEOGRAPHER: We are</p> <p>21 back on the record at 4:25.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Endo-Stevenson-33.)</p>	<p style="text-align: right;">Page 429</p> <p>1 Q. Just giving you some</p> <p>2 orientation here. Let me go back to the</p> <p>3 body of the e-mail. I apologize. Is</p> <p>4 Carey man or woman? Do you remember?</p> <p>5 A. I beg your pardon? Could</p> <p>6 you say that again?</p> <p>7 Q. Do you remember if Carey was</p> <p>8 a man or woman?</p> <p>9 A. To be honest, I don't.</p> <p>10 Q. We're going to go with</p> <p>11 mister just for no reason. Mr. Aron</p> <p>12 says, "I'm happy to inform you that the</p> <p>13 final version of the opioid patient</p> <p>14 brochure ('Understanding your pain:</p> <p>15 Taking oral opioid analgesics') is now</p> <p>16 fully PMRB approved and ready for</p> <p>17 production (PDF of final version</p> <p>18 attached)."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you recall again</p> <p>22 the reference in the risk management plan</p> <p>23 that we looked at earlier to this opioid</p> <p>24 patient brochure?</p>

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<p style="text-align: right;">Page 430</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And then if you go</p> <p>3 down to the next paragraph -- sorry, next</p> <p>4 paragraph, Mr. Aron is asking for certain</p> <p>5 information from you, Debbie Travers and</p> <p>6 others in order to make appropriate</p> <p>7 decisions regarding the initial print run</p> <p>8 for the brochure, correct?</p> <p>9 A. Yes. It appears that way,</p> <p>10 yes.</p> <p>11 Q. Okay. And the first bullet</p> <p>12 point discusses the budget for the</p> <p>13 brochures, and then there's a couple</p> <p>14 sub-bullets under that. The first one is</p> <p>15 addressed to you. "George, as above</p> <p>16 relative to 3218." And that's the</p> <p>17 generic oxycodone again, right?</p> <p>18 A. Yes.</p> <p>19 Q. And then it goes on in the</p> <p>20 next paragraph. "As above relative to</p> <p>21 EN3202/03." And you'll recall that we</p> <p>22 saw those numbers refer to Opana IR and</p> <p>23 ER, right?</p> <p>24 A. Yes, and Deb Travers and</p>	<p style="text-align: right;">Page 432</p> <p>1 go to patients, right?</p> <p>2 A. I believe so.</p> <p>3 Q. Okay. And let's look at the</p> <p>4 actual brochure itself. Go to Page 5804</p> <p>5 in the lower right-hand corner. You see</p> <p>6 the cover for "Understanding your pain:</p> <p>7 Taking oral opioid analgesics," right?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And if you go to</p> <p>10 Page 5806 in the lower right-hand corner</p> <p>11 of the brochure, looking in the</p> <p>12 right-hand column under the heading,</p> <p>13 "What should I know about opioids and</p> <p>14 addiction?"</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And then the text</p> <p>18 describes statements about what addiction</p> <p>19 allegedly is and isn't, correct?</p> <p>20 A. Yes.</p> <p>21 MS. VANNI: Object to form.</p> <p>22 BY MS. SCULLION:</p> <p>23 Q. The third sentence in that</p> <p>24 section states, "Addiction is a chronic</p>
<p style="text-align: right;">Page 431</p> <p>1 Jerry McLaughlin were brand marketing.</p> <p>2 Q. Okay. So this was a patient</p> <p>3 brochure that was contemplated to be used</p> <p>4 in association with both the generic</p> <p>5 oxycodone product and the branded</p> <p>6 oxymorphone products, right?</p> <p>7 A. It was available as a tool,</p> <p>8 as I understand it.</p> <p>9 Q. Okay. And then this is a</p> <p>10 brochure that, again, was designed</p> <p>11 specifically to be distributed to</p> <p>12 patients, correct?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 I don't know who it was designed</p> <p>16 to be distributed. I don't recall</p> <p>17 who -- who the audience was.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Yeah, it's described as the</p> <p>20 opioid patient brochure, correct?</p> <p>21 A. Yes, yes, yes. But I'm not</p> <p>22 sure that it was -- yes, patient</p> <p>23 brochure, yes.</p> <p>24 Q. Okay. So it's designed to</p>	<p style="text-align: right;">Page 433</p> <p>1 brain disease that can occur in some</p> <p>2 people exposed to certain substances such</p> <p>3 as alcohol, cocaine, and opioids."</p> <p>4 Did I read that correctly?</p> <p>5 A. You did.</p> <p>6 Q. Is that consistent with your</p> <p>7 understanding that addiction is in fact a</p> <p>8 chronic brain disease?</p> <p>9 A. I'm not an expert. I'm</p> <p>10 not -- I'm not a doctor. So I would</p> <p>11 not -- I could not testify as to what it</p> <p>12 is.</p> <p>13 Q. Okay. But fair to say that</p> <p>14 addiction, though, is a medical</p> <p>15 condition, right?</p> <p>16 MS. VANNI: Object to form.</p> <p>17 THE WITNESS: It's -- it's a</p> <p>18 condition -- yes, it's -- I --</p> <p>19 yeah, you can say a medical</p> <p>20 condition.</p> <p>21 BY MS. SCULLION:</p> <p>22 Q. I mean, as you said, you</p> <p>23 don't feel comfortable speaking to it</p> <p>24 because you're not a medical doctor,</p>

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<p style="text-align: right;">Page 434</p> <p>1 right?</p> <p>2 A. Right, exactly.</p> <p>3 Q. So it's something that a</p> <p>4 medical doctor should be speaking to,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. All right. Not something an</p> <p>8 average person could diagnose?</p> <p>9 MS. VANNI: Object to form.</p> <p>10 THE WITNESS: I don't</p> <p>11 think -- I don't think addiction</p> <p>12 was designed to be -- that</p> <p>13 somebody could -- that somebody</p> <p>14 could diagnose it. It was -- I</p> <p>15 think what it's saying here,</p> <p>16 addiction is a chronic brain</p> <p>17 disease, et cetera, that as you</p> <p>18 read it, as trying to find what it</p> <p>19 is.</p> <p>20 And then it goes on to say,</p> <p>21 as I'm sure you'll cover, what</p> <p>22 it's not.</p> <p>23 BY MS. SCULLION:</p> <p>24 Q. Right. And I'm just asking,</p>	<p style="text-align: right;">Page 436</p> <p>1 Q. Well, the risk management</p> <p>2 plan that we looked at refers to, among</p> <p>3 the various societies, the American</p> <p>4 Society For Addiction Medicine. You've</p> <p>5 heard of them?</p> <p>6 A. Not -- you know, I'm not</p> <p>7 familiar with them, but yes, okay.</p> <p>8 Q. Okay. And then let's go see</p> <p>9 what the brochure then actually tells</p> <p>10 patients. The next page, if you go to</p> <p>11 the next page of the brochure, you see in</p> <p>12 the top left-hand corner it asks the</p> <p>13 question, "How can I be sure I'm not</p> <p>14 addicted?"</p> <p>15 A. Yeah.</p> <p>16 Q. Do you see that?</p> <p>17 A. Yeah.</p> <p>18 Q. And the first bullet point</p> <p>19 under that talks about, again, what</p> <p>20 addiction allegedly means in terms of</p> <p>21 whether a pain has gone away.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 MS. VANNI: Object to form.</p>
<p style="text-align: right;">Page 435</p> <p>1 you know, putting aside what the brochure</p> <p>2 is saying right there, though, your</p> <p>3 understanding, though, addiction is not</p> <p>4 something that an average person should</p> <p>5 be trying to diagnose themselves, right?</p> <p>6 MS. VANNI: Object to form.</p> <p>7 THE WITNESS: Average -- I</p> <p>8 don't -- I can't answer that, what</p> <p>9 the average person should be</p> <p>10 diagnosing or not diagnosing.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Well, as you say, it is a</p> <p>13 medical condition. You typically would</p> <p>14 go to a doctor to diagnose a medical</p> <p>15 condition, right?</p> <p>16 A. Yes. You would go to a</p> <p>17 doctor to diagnose a medical condition.</p> <p>18 Q. Okay. And we've seen in the</p> <p>19 risk management plan, in fact, there's a</p> <p>20 whole field of medicine that specializes</p> <p>21 in addiction, correct?</p> <p>22 A. I don't know if I would say</p> <p>23 specializes in addiction, but I guess you</p> <p>24 could say that.</p>	<p style="text-align: right;">Page 437</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. And the next bullet point</p> <p>3 after this question, "How can I be sure</p> <p>4 I'm not addicted?"</p> <p>5 Can you read for the jury</p> <p>6 what the brochure states in answer to</p> <p>7 that question?</p> <p>8 A. The first bullet?</p> <p>9 Q. Second bullet point?</p> <p>10 A. "Ask yourself: Would I want</p> <p>11 to take this medicine if my pain went</p> <p>12 away? If you answer no, you are taking</p> <p>13 opioids for the right reasons, to relieve</p> <p>14 your pain and improve your function. You</p> <p>15 are not addicted."</p> <p>16 Q. Right. Now, again, the</p> <p>17 brochure says that after asking the</p> <p>18 question, "how can I be sure I'm not</p> <p>19 addicted?" Right?</p> <p>20 A. That's what it says, yes.</p> <p>21 Q. It doesn't say, "What are</p> <p>22 signs of addictions?" Right?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: No, not in</p>

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<p style="text-align: right;">Page 438</p> <p>1 that particular page. But if I go</p> <p>2 back to 806, it describes what</p> <p>3 addiction is not.</p> <p>4 BY MS. SCULLION:</p> <p>5 Q. Right.</p> <p>6 A. And there's a whole</p> <p>7 paragraph that describes what addiction</p> <p>8 is not.</p> <p>9 So it does in the brochure</p> <p>10 address as a way for the patient to</p> <p>11 identify if, you know, they have some</p> <p>12 signs of addiction in order that if it</p> <p>13 was -- they felt they were addicted, it</p> <p>14 was designed to be able to go back to a</p> <p>15 medical doctor.</p> <p>16 Q. Well, that's not what it</p> <p>17 does on this page though, right? On this</p> <p>18 page, it doesn't say, you know, "Go to</p> <p>19 your doctor to be sure whether you are</p> <p>20 addicted," right?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: No, it doesn't</p> <p>23 say that on that page.</p> <p>24 BY MS. SCULLION:</p>	<p style="text-align: right;">Page 440</p> <p>1 say that's probably typical, yeah.</p> <p>2 BY MS. SCULLION:</p> <p>3 Q. Okay. But in this brochure,</p> <p>4 it's going to patients about pretty</p> <p>5 serious topic about opioid use and</p> <p>6 addiction, it doesn't say here, "Ask your</p> <p>7 doctor if you're addicted," right?</p> <p>8 MS. VANNI: Object to form.</p> <p>9 THE WITNESS: It implies,</p> <p>10 certainly on 06, you should ask</p> <p>11 your doctor. It says</p> <p>12 specifically, "Your doctor will</p> <p>13 avoid stopping your medication</p> <p>14 suddenly." It goes on, et cetera.</p> <p>15 It applies that you have</p> <p>16 interaction with a physician.</p> <p>17 BY MS. SCULLION:</p> <p>18 Q. I understand. We'll come</p> <p>19 back to 06. I'm happy to talk about 06.</p> <p>20 But on this page, this is talking about</p> <p>21 the critical question that some patients</p> <p>22 would have, "How can I be sure I'm not</p> <p>23 addicted?" That's the question this page</p> <p>24 is addressing, right?</p>
<p style="text-align: right;">Page 439</p> <p>1 Q. No. It says --</p> <p>2 A. But it does on 06.</p> <p>3 Q. Okay. We'll get back to 06.</p> <p>4 But on this page, it's saying to a</p> <p>5 patient, "How can I be sure I'm not</p> <p>6 addicted?" And what it's telling the</p> <p>7 patient is ask yourself this question,</p> <p>8 right?</p> <p>9 A. Yeah. Well, that's -- I</p> <p>10 mean, yes. Yes, that's correct.</p> <p>11 Q. Okay. I think you referred</p> <p>12 earlier to television ads for drug</p> <p>13 products. Do you remember referring to</p> <p>14 that earlier, right?</p> <p>15 A. Yes, absolutely.</p> <p>16 Q. And, you know, in all those</p> <p>17 TV ads, right, you see TV ads for drug</p> <p>18 products, we hear that the tagline, "Ask</p> <p>19 your doctor" -- right -- "if X is right</p> <p>20 for you." That's typically what we hear,</p> <p>21 right?</p> <p>22 MS. VANNI: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: Yes, I would</p>	<p style="text-align: right;">Page 441</p> <p>1 A. Yes. It's designed -- yes,</p> <p>2 it is, yes.</p> <p>3 Q. Right. And what it's</p> <p>4 suggesting to patients is they should</p> <p>5 self-diagnose --</p> <p>6 MS. VANNI: Objection.</p> <p>7 BY MS. SCULLION:</p> <p>8 Q. -- by asking themselves this</p> <p>9 question.</p> <p>10 MS. VANNI: Object to form.</p> <p>11 THE WITNESS: I don't agree</p> <p>12 with the characterization of your</p> <p>13 question. So --</p> <p>14 BY MS. SCULLION:</p> <p>15 Q. Well, it does say, in</p> <p>16 response to, "How can I be sure I'm not</p> <p>17 addicted?" The response is, "Ask</p> <p>18 yourself this question," right?</p> <p>19 A. Well, that's just -- that's</p> <p>20 what it says.</p> <p>21 Q. Right. Now, you understand</p> <p>22 that if someone were addicted, that's a</p> <p>23 condition that could impact, among other</p> <p>24 things, their willingness to be honest</p>



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<p style="text-align: right;">Page 442</p> <p>1 with themselves about their condition, 2 right? 3 MS. VANNI: Objection. 4 Foundation. 5 THE WITNESS: I can't answer 6 what everybody is going to think 7 or not think. So, I mean, that's 8 just not -- I can't testify to 9 that. 10 BY MS. SCULLION: 11 Q. I mean, I think just from 12 your common experience as a human being 13 in the world, I mean, addicts often have 14 a hard time admitting to themselves that 15 they are addicted, correct? 16 MS. VANNI: Objection. 17 THE WITNESS: This brochure 18 and the paragraph you're referring 19 to is trying to give the patient a 20 question in case they believe they 21 have an issue. 22 If you're taking, as it says 23 here, would I take -- would I 24 want -- would I want to take this</p>	<p style="text-align: right;">Page 444</p> <p>1 can be good reasons to -- to be taking 2 opioids, right, for -- for pain 3 management right? 4 A. For pain management. 5 Q. Right. But this part of 6 this brochure is addressed to one of the 7 risks that is inherent in opioid 8 products, and that is the risk of 9 addiction, right? 10 A. Risk of addiction, yes. 11 Q. And that's a -- that's a 12 serious important topic, right? 13 A. Of course it's a serious 14 important topic, yes. 15 Q. And -- and patients, by 16 definition, would have been concerned to 17 understand how they could be sure whether 18 they were addicted to the opioids, right? 19 MS. VANNI: Object to form. 20 THE WITNESS: Could you 21 restate that, please? 22 BY MS. SCULLION: 23 Q. Sure. I mean, this brochure 24 is asking this question for a reason,</p>
<p style="text-align: right;">Page 443</p> <p>1 medicine if my pain went away. If 2 you answer no, you are taking the 3 opioid for the right reasons, to 4 relieve your pain and improve your 5 function. That's what opioids do. 6 Pain management, quality of life. 7 That's what they do. Obviously if 8 you're -- if you -- obviously if 9 you are taking this, if the pain 10 does go away, that means that, you 11 know, you may have a problem and 12 need to go take a -- see a doctor. 13 Whether or not the person is 14 willing to step forward is -- is 15 up to the individual. 16 BY MS. SCULLION: 17 Q. That's right. It's up to 18 them whether they would answer that 19 question, that's posed here, whether they 20 would answer it honestly to themselves, 21 right? 22 A. Endo can't, or any company 23 cannot have any control over that. 24 Q. Right. So as you say, there</p>	<p style="text-align: right;">Page 445</p> <p>1 because it thinks patients would want to 2 look at this issue and be able to 3 understand what -- how they would know if 4 they are addicted or not, right? 5 MS. VANNI: Object to form. 6 THE WITNESS: It's designed 7 to have a -- yes. It would be an 8 indication if they had a -- if 9 they -- if they were addicted or 10 not. If they are -- if they are 11 taking the opioid for other than 12 pain relief, that would be an 13 indication that they probably 14 should see a medic -- that they 15 should see a medical doctor. 16 BY MS. SCULLION: 17 Q. Okay. But right here on 18 this page, it doesn't say if you have any 19 of the signs of addiction, go ask your 20 doctor to be sure, that's not what it 21 says, right, we agreed on that? 22 MS. VANNI: Object to form. 23 THE WITNESS: It doesn't say 24 that on this page, no.</p>

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<p style="text-align: right;">Page 446</p> <p>1 BY MS. SCULLION:  2 Q. Right. And so looking at  3 this page and reading this page on this  4 brochure on this important topic of  5 addiction, a patient could understand  6 that what they should be doing is asking  7 themselves this question. And if they  8 answer it no, then they can be sure they  9 are not addicted.  10 MS. VANNI: Objection.  11 BY MS. SCULLION:  12 Q. Right?  13 A. If they answer it no and  14 they still have pain, yes, that's  15 correct.  16 Q. Well, but no, it just -- it  17 just says if they answer it no.  18 A. "If you answer no you are  19 taking opioids for the right reason.  20 It's designed as a simple" -- "it's  21 designed as a simple way for the patient  22 to check whether or not they believe they  23 have a problem or not. If they are  24 taking the opioids for pain management,</p>	<p style="text-align: right;">Page 448</p> <p>1 an addiction problem or not.  2 Q. And it doesn't talk about  3 what level of pain, right?  4 I mean pain has different  5 levels, right?  6 A. There's different levels of  7 pain. But that -- that's determined by  8 the physician when he prescribes the  9 product.  10 Q. Agreed. A physician should  11 determine the medication based on the  12 level of pain, right?  13 A. Well, of course.  14 Q. And -- but this is not  15 asking -- saying that. This is saying to  16 the patient individually, you determine  17 if you are still taking it for pain.  18 That pain could be far lower than what a  19 physician would agree is appropriate to  20 use opioids for --  21 MS. VANNI: Objection.  22 Misstates the document.  23 THE WITNESS: No, I -- I  24 disagree with that.</p>
<p style="text-align: right;">Page 447</p> <p>1 then they are taking it for the right  2 reason. If they are not taking it for  3 pain management or quality of life," as  4 it says there, or to be clear, not  5 quality of life. "To relieve your pain  6 and improve your function," then if -- if  7 that's why -- if they are taking it for  8 other than that, then -- then it  9 indicates that you have a problem. And  10 it implies you should go see obviously a  11 medical professional.  12 Q. Right. But it's asking the  13 patient to make that self-assessment,  14 right?  15 MS. VANNI: Object to form.  16 BY MS. SCULLION:  17 Q. About why they are taking  18 the opioids?  19 A. Well, we talked a moment ago  20 about human beings. Most human beings  21 are going to -- if I read that I would  22 say a-ha, if that's my case I would  23 say -- I would now be able to tell pretty  24 clearly using common sense whether I had</p>	<p style="text-align: right;">Page 449</p> <p>1 MS. VANNI: Asked and  2 answered.  3 THE WITNESS: This is saying  4 to somebody who is under the care  5 of a doctor who is being  6 prescribed an opioid product by a  7 doctor, that if they are taking  8 that, and they have some concern  9 that they are addicted to the  10 product, if they have pain,  11 then -- and -- I want to read it  12 correctly.  13 If they have pain and their  14 functions are improved by the  15 opioid product that the doctor has  16 prescribed, that doesn't mean they  17 are addicted. That's what it's  18 saying.  19 BY MS. SCULLION:  20 Q. Okay. Now, you were -- you  21 were looking at Page 06 before. And I  22 think you were looking under the column  23 "What should I know about opioids and  24 addiction?"</p>

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<p style="text-align: right;">Page 450</p> <p>1 Is that right?</p> <p>2 A. Correct.</p> <p>3 Q. And you pointed to, in the</p> <p>4 second paragraph, the sentence, "Your</p> <p>5 doctor will avoid stopping your</p> <p>6 medications suddenly by slowing</p> <p>7 reduce" -- "slowly reducing the</p> <p>8 medication" -- let me start again.</p> <p>9 Sorry.</p> <p>10 "Your doctor will avoid</p> <p>11 stopping your medication suddenly by</p> <p>12 slowly reducing the amount of opioid you</p> <p>13 take before the medicine is completely</p> <p>14 stopped."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. And nothing in that sentence</p> <p>18 says, if you have concerns that you may</p> <p>19 be addicted, ask your doctor to be sure;</p> <p>20 that's not what it says, right?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: No, but it</p> <p>23 certainly implies that you're</p> <p>24 talking to a doctor.</p>	<p style="text-align: right;">Page 452</p> <p>1 THE WITNESS: If you're</p> <p>2 taking any kind of medication,</p> <p>3 opioid or non-opioid, you are</p> <p>4 getting that medication through an</p> <p>5 interaction with a physician. And</p> <p>6 if you're on pain management</p> <p>7 medication, you would be under the</p> <p>8 care of a -- of a medical doctor</p> <p>9 in order to get that pain</p> <p>10 management prescription. So it</p> <p>11 implies that you are interacting</p> <p>12 with a physician.</p> <p>13 So this was written by the</p> <p>14 clinical people. I didn't write</p> <p>15 this. This was written by the</p> <p>16 science people of the company.</p> <p>17 That's who wrote this document.</p> <p>18 But it -- obviously it goes</p> <p>19 to the patient, but it's just</p> <p>20 designed to make them aware</p> <p>21 this -- these are some signs to be</p> <p>22 aware of in case -- you know, so</p> <p>23 they are educated that they should</p> <p>24 be aware of when they -- what</p>
<p style="text-align: right;">Page 451</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. Understood. This is going</p> <p>3 to patients, right?</p> <p>4 A. Yes.</p> <p>5 Q. Right. But again, as we saw</p> <p>6 on the page, it actually asks about how</p> <p>7 can I be sure I'm not addicted. The one</p> <p>8 thing it doesn't say is ask your doctor,</p> <p>9 right?</p> <p>10 MS. VANNI: Object to form.</p> <p>11 Asked and answered.</p> <p>12 THE WITNESS: If you are</p> <p>13 taking an opioid medication, it</p> <p>14 has to be prescribed by a medical</p> <p>15 doctor.</p> <p>16 BY MS. SCULLION:</p> <p>17 Q. Correct. But going back to</p> <p>18 Page 07, the next page, in answer to the</p> <p>19 question, "How can I be sure I'm not</p> <p>20 addicted," the one thing that doesn't say</p> <p>21 there is ask your doctor if you want to</p> <p>22 sure if you're addicted.</p> <p>23 MS. VANNI: Objection.</p> <p>24 Asked and answered.</p>	<p style="text-align: right;">Page 453</p> <p>1 addiction -- what addiction is not</p> <p>2 and if they are taking pain</p> <p>3 medication or thinking to</p> <p>4 themselves, gee whiz, I'm still</p> <p>5 taking pain medication, am I</p> <p>6 addicted. If the answer is no,</p> <p>7 you are taking opioids -- you're</p> <p>8 taking -- right -- opioids for the</p> <p>9 right -- to relieve your pain and</p> <p>10 improve your function.</p> <p>11 So it -- it obviously</p> <p>12 implies you're interacting with a</p> <p>13 doctor because you couldn't get</p> <p>14 the prescription to begin with.</p> <p>15 MS. SCULLION: I'm going to</p> <p>16 move to strike the response there</p> <p>17 as nonresponsive.</p> <p>18 BY MS. SCULLION:</p> <p>19 Q. Mr. Stevenson, I'm just</p> <p>20 asking though, factually, in response to</p> <p>21 the question, "How can I be sure I'm not</p> <p>22 addicted," the one thing that's not</p> <p>23 stated in this response that the patient</p> <p>24 would be reading is ask your doctor to be</p>

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<p style="text-align: right;">Page 454</p> <p>1 sure whether you're not addicted?</p> <p>2 MS. VANNI: Objection.</p> <p>3 BY MS. SCULLION:</p> <p>4 Q. It doesn't say that</p> <p>5 factually.</p> <p>6 MS. VANNI: Object to form.</p> <p>7 Asked and answered.</p> <p>8 THE WITNESS: No, we've</p> <p>9 already -- already testified to</p> <p>10 that.</p> <p>11 BY MS. SCULLION:</p> <p>12 Q. Okay.</p> <p>13 A. But it -- but I also want to</p> <p>14 be clear in the characterization of my</p> <p>15 answer, it implies interaction with a</p> <p>16 doctor. You are implying. That's why I</p> <p>17 disagree with the characterization of the</p> <p>18 line of inquiry that somehow the patient</p> <p>19 is taking opioids outside the -- outside</p> <p>20 the prescription of a medical doctor.</p> <p>21 MS. SCULLION: So I'm going</p> <p>22 to move to strike everything after</p> <p>23 that I've already testified to</p> <p>24 that.</p>	<p style="text-align: right;">Page 456</p> <p>1 - - -</p> <p>2 EXAMINATION</p> <p>3 - - -</p> <p>4 BY MR. LENISKI:</p> <p>5 Q. Good afternoon,</p> <p>6 Mr. Stevenson. My name is Joe Leniski.</p> <p>7 We were introduced earlier. I'm from the</p> <p>8 State of Tennessee, and I represent</p> <p>9 plaintiffs in the State of Tennessee.</p> <p>10 I'm going to follow up with some</p> <p>11 questions for you today.</p> <p>12 How are you feeling? Okay?</p> <p>13 A. I'm feeling great.</p> <p>14 MR. LENISKI: We have a</p> <p>15 standing objection, the Tennessee</p> <p>16 plaintiffs do, to these</p> <p>17 depositions, which I'll adopt</p> <p>18 here, due to a number of different</p> <p>19 issues, lack of notice, lack of</p> <p>20 document production, because</p> <p>21 different civil rules of procedure</p> <p>22 apply in Tennessee.</p> <p>23 And I will adopt that</p> <p>24 objection, as I have in other</p>
<p style="text-align: right;">Page 455</p> <p>1 BY MS. SCULLION:</p> <p>2 Q. And, Mr. Stevenson, I</p> <p>3 understand you didn't write the brochure.</p> <p>4 I understand that. Do you agree though</p> <p>5 it would be important to be as clear as</p> <p>6 possible with patients about an issue</p> <p>7 such as how they could be sure about</p> <p>8 whether they were addicted to opioids?</p> <p>9 A. Clarity is always good.</p> <p>10 Q. Okay.</p> <p>11 MS. SCULLION: I have no</p> <p>12 further questions for you today.</p> <p>13 Thank you for your time.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MS. SCULLION: I think we're</p> <p>16 going to take a quick break and my</p> <p>17 colleague from Tennessee will be</p> <p>18 asking some questions.</p> <p>19 THE WITNESS: Okay.</p> <p>20 THE VIDEOGRAPHER: Off the</p> <p>21 record, 4:48.</p> <p>22 (Short break.)</p> <p>23 THE VIDEOGRAPHER: We are</p> <p>24 back on the record at 4:55.</p>	<p style="text-align: right;">Page 457</p> <p>1 depositions. And nonetheless, in</p> <p>2 the spirit of cooperating with the</p> <p>3 MDL and under the protocol</p> <p>4 established by that court, we're</p> <p>5 here today to ask questions.</p> <p>6 If there's no response,</p> <p>7 I'll --</p> <p>8 MS. VANNI: No objection.</p> <p>9 MR. LENISKI: -- continue.</p> <p>10 MS. VANNI: So noted.</p> <p>11 MR. LENISKI: Thank you.</p> <p>12 BY MR. LENISKI:</p> <p>13 Q. Before your deposition,</p> <p>14 Mr. Stevenson, we asked Endo's lawyers if</p> <p>15 you had any knowledge that was specific</p> <p>16 to the State of Tennessee. And they</p> <p>17 responded that your responsibilities</p> <p>18 while you were at Endo were national in</p> <p>19 scope and not particular to Tennessee,</p> <p>20 and that you didn't -- effectively, you</p> <p>21 didn't have any Tennessee-specific</p> <p>22 knowledge that you gained while you were</p> <p>23 at Endo.</p> <p>24 Do you agree with that</p>

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<p style="text-align: right;">Page 458</p> <p>1 statement?</p> <p>2 A. Absolutely true.</p> <p>3 Q. Okay. So, for example,</p> <p>4 during your tenure at Endo, while you may</p> <p>5 not have had specific knowledge, did you</p> <p>6 know that Endo did sell its opioid</p> <p>7 products in the State of Tennessee?</p> <p>8 A. Endo sold their products</p> <p>9 nationally, so including Tennessee.</p> <p>10 Q. Okay. What did you know</p> <p>11 about opioid abuse rates in Tennessee</p> <p>12 during your time at Endo?</p> <p>13 A. Nothing.</p> <p>14 Q. While employed at Endo, did</p> <p>15 you have any understanding of the level</p> <p>16 of opioid use in Tennessee relative to</p> <p>17 other states?</p> <p>18 A. No.</p> <p>19 Q. While employed at Endo, did</p> <p>20 you have any understanding of the level</p> <p>21 of opioid abuse in Tennessee relative to</p> <p>22 other states?</p> <p>23 A. No.</p> <p>24 Q. While employed at Endo, did</p>	<p style="text-align: right;">Page 460</p> <p>1 it now, yes.</p> <p>2 Q. And basically it's just a</p> <p>3 range of -- is a range of -- the region,</p> <p>4 rather, around the Appalachian Mountains.</p> <p>5 A. Okay.</p> <p>6 Q. Did you gain any -- while</p> <p>7 you were employed at Endo, did you gain</p> <p>8 any understanding about opioid use in</p> <p>9 Appalachia?</p> <p>10 A. No.</p> <p>11 Q. Did you learn anything</p> <p>12 during your time at Endo of opioid abuse</p> <p>13 rates in Appalachia relative to other</p> <p>14 areas of the country?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: No.</p> <p>17 BY MR. LENISKI:</p> <p>18 Q. Okay. So you did not have</p> <p>19 any understanding while you were at Endo</p> <p>20 that the level of opioid abuse in</p> <p>21 Appalachia was relatively higher than</p> <p>22 other parts of the country?</p> <p>23 MS. VANNI: Object to form.</p> <p>24 THE WITNESS: No. I had no</p>
<p style="text-align: right;">Page 459</p> <p>1 you know that opioid abuse rates -- or</p> <p>2 have any understanding that opioid abuse</p> <p>3 rates were higher in Tennessee than</p> <p>4 almost anywhere else in the country?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. LENISKI:</p> <p>8 Q. Now, most of my clients are</p> <p>9 district attorneys in the State of</p> <p>10 Tennessee. They represent districts in a</p> <p>11 part of Tennessee that we refer to as</p> <p>12 Appalachia. Have you heard of Appalachia</p> <p>13 before?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And do you have a</p> <p>16 general understanding that parts of</p> <p>17 Tennessee are located in Appalachia?</p> <p>18 A. I always thought Appalachia</p> <p>19 was located in Tennessee. But yes.</p> <p>20 Q. Certainly is. I think it's</p> <p>21 a wider region. Do you understand other</p> <p>22 states would also be included in the</p> <p>23 region known as Appalachia?</p> <p>24 A. I guess so, if I think about</p>	<p style="text-align: right;">Page 461</p> <p>1 knowledge of that.</p> <p>2 BY MR. LENISKI:</p> <p>3 Q. Okay. I also represent</p> <p>4 individual infants and toddlers in</p> <p>5 Tennessee who were born afflicted with</p> <p>6 neonatal abstinence syndrome, or what's</p> <p>7 called NAS, because their mothers abused</p> <p>8 opioids while pregnant. Have you ever</p> <p>9 heard of neonatal abstinence syndrome?</p> <p>10 A. No.</p> <p>11 Q. Okay. Did you ever hear the</p> <p>12 term "epidemic" used to describe opioid</p> <p>13 use in this country while you were</p> <p>14 employed at Endo?</p> <p>15 MS. VANNI: Object to form.</p> <p>16 THE WITNESS: I'm not sure</p> <p>17 when I heard -- when I was at Endo</p> <p>18 I heard the word "epidemic." I</p> <p>19 can't -- I can't testify to that.</p> <p>20 I've heard it recently in the</p> <p>21 news. But I would say when I was</p> <p>22 at Endo, I can't recall that.</p> <p>23 BY MR. LENISKI:</p> <p>24 Q. Okay. So was the term</p>



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<p>1 "opioid epidemic" ever used, to your 2 knowledge, at Endo while you were 3 employed there? 4 MS. VANNI: Object to form. 5 THE WITNESS: To my 6 knowledge, no. 7 BY MR. LENISKI: 8 Q. Did you ever hear the term 9 "epidemic" to describe Opana use in this 10 country while you were employed at Endo? 11 A. No. 12 Q. Do you recall being asked 13 questions early today about the 2003 14 meetings between Endo and the DEA and FDA 15 with respect to oxymorphone ER and IR? 16 MS. VANNI: Objection. 17 THE WITNESS: I was not 18 at -- I wasn't at a DEA involving 19 oxymorphone IR and ER. 20 BY MR. LENISKI: 21 Q. I'm sorry. I think you were 22 asked questions about MDL counsel about 23 generic OxyContin that Opana -- or that 24 Endo was launching in 2003. Do you</p>	<p>1 MR. LENISKI: It's one page. 2 It's double-sided. 3 MS. VANNI: I think you just 4 had an extra copy. Thank you. 5 BY MR. LENISKI: 6 Q. I've handed you Exhibit 34, 7 which is a series of e-mails that are 8 dated between June 30, 2003, and 9 July 1st, 2003. The very first e-mail on 10 the chain, which is on the second page of 11 Exhibit 34, is from Bob Barto. And it's 12 subject "Agency contact report, 13 oxymorphone ER and IR." 14 Do you see that? 15 A. Which one is it? Where is 16 Bob Barto? Oh, yeah, there -- sorry. 17 Yeah. Okay. 18 Q. Did you find that? 19 A. Yes. 20 Q. And who is Bob Barto? 21 A. I don't know exactly. Based 22 on the documents that I've seen, he was 23 involved in regulatory affairs. 24 Q. His e-mail reads, "Please</p>
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<p>1 recall that? 2 A. We were hoping to launch in 3 2003. We launched it in June of '05. 4 Q. Okay. Did you have any 5 involvement or any responsibilities 6 relative to Endo's launch of oxymorphone 7 ER or IR around that time frame of 2003? 8 A. No. 9 (Document marked for 10 identification as Exhibit 11 Endo-Stevenson-34.) 12 BY MR. LENISKI: 13 Q. There's copies there for 14 your attorney. 15 A. Oh, sorry. 16 MS. VANNI: You don't need 17 to apologize. 18 BY MR. LENISKI: 19 Q. I handed the witness a 20 document that we've identified as 21 Exhibit 34 to his deposition. This is 22 ENDO-OPIOID MDL-01716696. 23 MS. VANNI: Is this one 24 page, Counsel?</p>	<p>1 see attached agency contact report 2 regarding oxymorphone ER and IR trade 3 name submission and risk management 4 plan." 5 Did I read that correctly? 6 A. Yes. 7 Q. The e-mail directly above 8 that is from Debbie Travers to Scott 9 Shively. And Miss Travers, who was 10 copied on or a recipient of Mr. Barto's 11 e-mail below is forwarding this e-mail to 12 Scott Shively. And who was Scott 13 Shively? 14 A. He was the vice president of 15 brand marketing. 16 Q. Okay. So you were on the 17 generic side at Endo and he was on the 18 brand side; is that correct? 19 A. Yes. 20 Q. Okay. 21 A. I was copied on here as a 22 convenience. I wasn't involved in the 23 product, but... 24 Q. Well, you are jumping ahead</p>

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<p style="text-align: right;">Page 466</p> <p>1 a little bit. We'll get there, but  2 there's an e-mail from Ms. Travers to  3 Mr. Shively. And she says, "Here it is.  4 They claim that our risk management plan  5 is not enough. But were nice enough to  6 point us in the right direction."  7 Did I read that correctly?  8 A. Yes.  9 Q. Okay. And then Mr. Shively  10 writes back -- or actually he actually  11 sends an e-mail to both Debbie Travers  12 and then a number of individuals  13 including MaryAlice Raudenbush.  14 A. Yes.  15 Q. Raudenbush -- later on  16 June 30, 2003. Do you see that e-mail?  17 A. Yes, I do.  18 Q. And he says, "MaryAlice,  19 'really deficient' with regard to our  20 risk management plan does not sound very  21 good. It seems we have a lot of work to  22 do."  23 Did I read that correctly?  24 A. Yes.</p>	<p style="text-align: right;">Page 468</p> <p>1 to 'track' prescriptions/patients.  2 Depending on what this translates to it  3 can be very laborious and very expensive  4 (a patient registry is the extreme case).  5 If it is just regional, that is  6 manageable, i.e., looking for 'macro  7 trends' and areas for concern."  8 Did I read that correctly?  9 A. Yes.  10 Q. Do you recall receiving that  11 e-mail?  12 A. No.  13 Q. Do you know why you were  14 copied on the e-mail from Mr. Shively?  15 A. Because he brought up at the  16 last sentence, "We have to do the same  17 for 3218," which would be oxycodone ER.  18 So he was just asking a question whether  19 or not this would now be required.  20 Q. Okay. And --  21 A. He was filling me in on  22 that, I guess so I would be aware of it.  23 Q. Okay. Do you recall  24 responding to Mr. Shively --</p>
<p style="text-align: right;">Page 467</p> <p>1 Q. Okay. Miss Raudenbush  2 writes back to Mr. Shively, also on  3 July 1st, 2003, correct?  4 A. Yes.  5 Q. And she says, "Scott, FDA  6 indicated that we have the right elements  7 but these are 'soft.' Our plan as  8 currently presented is quite vague and  9 lacks direction. It appears we also need  10 to address diversion from multiple  11 angles, i.e., tracking prescriptions by  12 region, trends, et cetera, as well as the  13 actual distribution of our products from  14 Memphis."  15 Did I read that correctly?  16 A. Yes.  17 Q. Okay. And then Mr. Shively  18 in the final e-mail on this exhibit  19 responds to MaryAlice Raudenbush, and he  20 copies you and a number of other  21 individuals.  22 He writes, "MaryAlice,  23 thanks, that helps a bit. My big concern  24 all along has been that we would be asked</p>	<p style="text-align: right;">Page 469</p> <p>1 A. I don't.  2 Q. -- about his question --  3 A. No.  4 Q. -- in this e-mail?  5 A. No.  6 Q. Okay. And do you remember  7 what the answer was whether the same  8 would be required for the -- for Endo's  9 generic launch of OxyContin to track  10 prescriptions in patients?  11 A. I don't remember.  12 Q. Did you have any  13 responsibilities with respect to  14 implementing any system for tracking  15 prescriptions or patients for either  16 oxymorphone ER and IR or what's numbered  17 here as 3218 which is the generic  18 OxyContin?  19 A. No. Just as I testified to  20 numerous times today, oxymorphone ER and  21 IR was a brand. I was not involved with  22 the brand other than for stocking of the  23 product in late '06 and into '07.  24 Q. Okay.</p>

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<p style="text-align: right;">Page 470</p> <p>1 (Document marked for 2 identification as Exhibit 3 Endo-Stevenson-35.) 4 BY MR. LENISKI: 5 Q. I'm handing the witness 6 what's been identified as Exhibit 35 to 7 his deposition. This is 8 ENDO-OPIOID_MDL-01692316. 9 Mr. Stevenson, would you 10 agree this is an e-mail from Sue Tolen to 11 a number of individuals including 12 yourself dated July 14, 2003? 13 A. Yes. 14 Q. And the title of this e-mail 15 is action plan to prevent diversion, 16 correct? 17 A. Diversion abuse of 18 OxyContin, yes. 19 Q. Well, that is -- the subject 20 of the e-mail is action plan to prevent 21 diversion. 22 A. Oh, excuse me. Subject. 23 Q. Right? 24 A. Yes, the subject, yes, is</p>	<p style="text-align: right;">Page 472</p> <p>1 A. I don't recall being a 2 participant in any meeting about this. 3 Q. Okay. Do you recall getting 4 this e-mail? 5 A. No, I don't recall getting 6 the e-mail either. 7 Q. Okay. If you look at the 8 attachment which starts on the second 9 page of Exhibit 35? 10 A. Yes. 11 Q. There is a document titled 12 "Drugs and Chemicals of Concern: Action 13 plan to prevent the diversion and abuse 14 of OxyContin," correct? 15 A. Yes. 16 Q. Third paragraph down it 17 reads, "Reports of a diversion and abuse 18 of OxyContin are currently concentrated 19 in rural areas of the Eastern United 20 States. However, DEA's Office of 21 Diversion Control has identified this 22 activity as a growing problem throughout 23 the nation. It has been described by 24 some local law enforcement officials as a</p>
<p style="text-align: right;">Page 471</p> <p>1 action plan to prevent diversion. Yes. 2 Q. And then there is an 3 attachment to this e-mail from Miss Tolen 4 which is titled action plan to prevent 5 the diversion and abuse of OxyContin, 6 correct? 7 A. Yes. 8 Q. Okay. And who was Sue 9 Tolen? 10 A. I don't know. I don't 11 remember. 12 Q. Okay. She writes, "Team, 13 attached is the action plan to prevent 14 the diversion and abuse of OxyContin from 15 the DEA website, mentioned at today's 16 meeting." 17 Did I read that correctly? 18 A. Yes. 19 Q. Okay. Now, do you know what 20 kind of meeting would have been -- that 21 Miss Tolen would have been referring to 22 that occurred in this time frame of 23 July 2003 to which you would have been a 24 participant?</p>	<p style="text-align: right;">Page 473</p> <p>1 national epidemic in the making." 2 Did I read that correctly? 3 A. Yes. 4 Q. Okay. Do you recall reading 5 this article or this attachment when you 6 received it in 2003? 7 MS. VANNI: Object to form. 8 THE WITNESS: No. 9 BY MR. LENISKI: 10 Q. Do you recall discussing the 11 contents of this attachment to this 12 e-mail in Exhibit 35 with any of the 13 individuals listed on the e-mail? 14 A. No. 15 Q. Do you recall if you did 16 anything at all with the information that 17 Miss Tolen forwarded you that we see in 18 Exhibit 35? 19 A. No. 20 Q. While employed at Endo was 21 it your practice to circulate news 22 articles about Endo's products to your 23 coworkers at Endo? 24 A. No. I wouldn't say it's a</p>

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<p style="text-align: right;">Page 474</p> <p>1 practice, no.</p> <p>2 Q. Okay. Do you recall doing</p> <p>3 just that, circulating news reports from</p> <p>4 the internet or other sources to your</p> <p>5 colleagues at Endo while you were</p> <p>6 employed there?</p> <p>7 A. I have no recollection.</p> <p>8 Q. Okay. Were reports in the</p> <p>9 news and elsewhere about -- about abuse</p> <p>10 of Endo's products occurring in the</p> <p>11 country relevant to your work at Endo?</p> <p>12 A. I'm sorry, could you restate</p> <p>13 that, please?</p> <p>14 Q. Were reports in the news and</p> <p>15 elsewhere about the abuse of Endo's</p> <p>16 products occurring in the country</p> <p>17 relevant to your work at Endo?</p> <p>18 MS. VANNI: Object to form.</p> <p>19 THE WITNESS: I never saw</p> <p>20 any article about the abuse of an</p> <p>21 Endo product.</p> <p>22 BY MR. LENISKI:</p> <p>23 Q. Were reports in the news and</p> <p>24 elsewhere about the abuse of opioids</p>	<p style="text-align: right;">Page 476</p> <p>1 respect to whatever work they were</p> <p>2 performing for Endo?</p> <p>3 A. I may have sat in a</p> <p>4 presentation that they made, a Cohn &amp;</p> <p>5 Wolfe presentation, I may have sat in a</p> <p>6 meeting. But I wasn't involved in</p> <p>7 anything else that Cohn &amp; Wolfe did.</p> <p>8 Q. Okay. So to your knowledge,</p> <p>9 were you involved in the retention of</p> <p>10 Cohn &amp; Wolfe to perform services on</p> <p>11 behalf of Endo?</p> <p>12 MS. VANNI: Objection.</p> <p>13 Asked and answered.</p> <p>14 THE WITNESS: No, I was not</p> <p>15 involved.</p> <p>16 BY MR. LENISKI:</p> <p>17 Q. I've handed you what we've</p> <p>18 marked as Exhibit 36. This is</p> <p>19 ENDO-OPIOID_MDL-04137641. Do you</p> <p>20 recognize this document?</p> <p>21 A. No.</p> <p>22 (Document marked for</p> <p>23 identification as Exhibit</p> <p>24 Endo-Stevenson-36.)</p>
<p style="text-align: right;">Page 475</p> <p>1 generally occurring in the country</p> <p>2 relevant to your work at Endo?</p> <p>3 MS. VANNI: Object to form.</p> <p>4 THE WITNESS: How do you</p> <p>5 define relevant?</p> <p>6 BY MR. LENISKI:</p> <p>7 Q. Well, is it information that</p> <p>8 you either did use or would have used in</p> <p>9 performing your job duties at Endo?</p> <p>10 A. No.</p> <p>11 Q. Okay. You were asked some</p> <p>12 questions earlier today about an entity</p> <p>13 known as Cohn &amp; Wolfe. Do you recall</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you remember when</p> <p>17 approximately Endo retained Cohn &amp;</p> <p>18 Wolfe's services?</p> <p>19 A. No. I have no idea.</p> <p>20 Q. Okay. Were you involved in</p> <p>21 retaining Cohn &amp; Wolfe to work with Endo?</p> <p>22 A. No.</p> <p>23 Q. Did you participate in</p> <p>24 meetings with Cohn &amp; Wolfe employees with</p>	<p style="text-align: right;">Page 477</p> <p>1 BY MR. LENISKI:</p> <p>2 Q. And I'll represent to you</p> <p>3 this is something that was located in</p> <p>4 your custodial file.</p> <p>5 Do you know why you would</p> <p>6 have had this document in your custodial</p> <p>7 file?</p> <p>8 A. Somebody sent it to me,</p> <p>9 because, you know, I was at the VP level</p> <p>10 and -- and Endo people kept the VP level</p> <p>11 informed. So I just got a copy of it.</p> <p>12 Q. Okay. This is an April 1st,</p> <p>13 2004, dated document. Letterhead says</p> <p>14 it's from Cohn &amp; Wolfe Healthcare, to</p> <p>15 Scott Shively from Patty Leitch. Do you</p> <p>16 recognize that name?</p> <p>17 A. No.</p> <p>18 Q. And this is regarding</p> <p>19 proactive media relations review and</p> <p>20 recommendations.</p> <p>21 First paragraph reads, "As</p> <p>22 we've had several conversations over the</p> <p>23 past few months regarding the merits of a</p> <p>24 media outreach in support of Endo</p>

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<p style="text-align: right;">Page 478</p> <p>1 corporate and program milestones, we've</p> <p>2 undertaken a review of the objectives and</p> <p>3 intent of proactive media relations to</p> <p>4 provide you with the below</p> <p>5 recommendations."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. It continues, "We've taken</p> <p>9 into account our recent experience with</p> <p>10 top tier medical and health policy news</p> <p>11 media, the current media environment, and</p> <p>12 feedback from you and your colleagues</p> <p>13 regarding the legal, regulatory, and</p> <p>14 investor sensitivity surrounding EN3218</p> <p>15 launch and EN3202 and 03 approval."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. There's a reference here to</p> <p>19 feedback from Endo personnel being</p> <p>20 received by Cohn &amp; Wolfe. Do you recall</p> <p>21 being -- or having any communications</p> <p>22 with Cohn &amp; Wolfe that predated the date</p> <p>23 of this memo, April 1st, 2004?</p> <p>24 A. I've never had any</p>	<p style="text-align: right;">Page 480</p> <p>1 Q. Okay. Do you have any</p> <p>2 knowledge as you sit here today as to why</p> <p>3 Endo retained Cohn &amp; Wolfe Healthcare to</p> <p>4 perform proactive media relations on its</p> <p>5 behalf surrounding the launch of generic</p> <p>6 OxyContin?</p> <p>7 A. I don't have any -- any idea</p> <p>8 what the underlying basis of it was.</p> <p>9 Q. Do you recall receiving</p> <p>10 communications from Cohn &amp; Wolfe,</p> <p>11 subsequent to this date of April 1st,</p> <p>12 2004, concerning reports of OxyContin</p> <p>13 abuse?</p> <p>14 A. No. I have no recollection</p> <p>15 of that.</p> <p>16 (Document marked for</p> <p>17 identification as Exhibit</p> <p>18 Endo-Stevenson-37.)</p> <p>19 BY MR. LENISKI:</p> <p>20 Q. I've handed you what's been</p> <p>21 marked as Exhibit 37 to your deposition.</p> <p>22 This is ENDO-OPIOID_MDL-03256784.</p> <p>23 Three e-mails down on the</p> <p>24 first page, there's an e-mail from</p>
<p style="text-align: right;">Page 479</p> <p>1 conversations or feed -- any interaction</p> <p>2 with Cohn &amp; Wolfe.</p> <p>3 Q. Okay. And there's reference</p> <p>4 here to EN3218. Again, as we said</p> <p>5 earlier that was generic OxyContin that</p> <p>6 Endo was trying to market, correct?</p> <p>7 A. Oxycodone ER, yes.</p> <p>8 Q. And then EN3203/03, was that</p> <p>9 oxymorphone ER and IR?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Do you recall having</p> <p>12 any involvement in any proactive media</p> <p>13 outreach concerning either the launch of</p> <p>14 generic OxyContin or the launch of</p> <p>15 oxymorphone ER and IR?</p> <p>16 A. Yeah, I wasn't involved</p> <p>17 in -- if there was any done, I wasn't --</p> <p>18 I don't believe there was anything really</p> <p>19 done on 3218. I wasn't involved in it.</p> <p>20 I don't have any recollection of it.</p> <p>21 Q. Okay.</p> <p>22 A. I can't speak to the 3202</p> <p>23 and 03 because that was a brand product,</p> <p>24 and I wasn't responsible for that.</p>	<p style="text-align: right;">Page 481</p> <p>1 WendyLu@nyc.CohnWolfe.com on April 6,</p> <p>2 2004, including a number of individuals</p> <p>3 including yourself, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And the subject of this</p> <p>6 e-mail is "Kentucky state programs and</p> <p>7 OxyContin abuse," correct?</p> <p>8 A. Yes.</p> <p>9 Q. And she writes, "Bill,</p> <p>10 Scott, George, Deb, and Jerry: We wanted</p> <p>11 to briefly provide you with perspective</p> <p>12 on today's news regarding the crackdown</p> <p>13 on OxyContin trafficking in Kentucky.</p> <p>14 Aggressive state monitoring programs and</p> <p>15 enforcement tactics levied against both</p> <p>16 drug abusers and dealers in Kentucky</p> <p>17 indicate that the state's leaders rate</p> <p>18 curbing prescription painkiller abuse as</p> <p>19 a high priority."</p> <p>20 Have I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. And do you know, are you the</p> <p>23 George that she is referring to in her</p> <p>24 subject line?</p>

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<p>1 A. Yes.</p> <p>2 Q. Okay. Do you know Wendy Lu?</p> <p>3 A. No.</p> <p>4 Q. Do you have recall ever</p> <p>5 meeting Wendy Lu?</p> <p>6 A. I have no recollection of</p> <p>7 ever meeting her.</p> <p>8 Q. If you flip over, the e-mail</p> <p>9 continues on the top of the next page.</p> <p>10 It says, "We recommend keeping close tabs</p> <p>11 on regulatory and enforcement activity</p> <p>12 surrounding the issue in Kentucky and</p> <p>13 beyond." And signed regards, "C&amp;W Endo</p> <p>14 team."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. There's a -- the e-mail</p> <p>18 continues. And it's forwarding an</p> <p>19 Associated Press article titled "Kentucky</p> <p>20 Authorities Crack Down on OxyContin."</p> <p>21 Did you see that?</p> <p>22 A. Yes.</p> <p>23 Q. It's April 6, 2004. And it</p> <p>24 reads Hazard, Kentucky byline.</p>	<p>1 Did I read that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall reading the</p> <p>4 article that Ms. Lu forwarded to you and</p> <p>5 others at Endo about this time of</p> <p>6 April 6, 2004?</p> <p>7 A. No recollection.</p> <p>8 Q. In her e-mail where she</p> <p>9 asks -- or where she stated, "We</p> <p>10 recommend" -- Cohn &amp; Wolfe recommends --</p> <p>11 "keeping close tabs on regulatory and</p> <p>12 enforcement activity surrounding this</p> <p>13 issue in Kentucky and beyond," was</p> <p>14 that something -- was that a -- was that</p> <p>15 a recommendation that you took any action</p> <p>16 in response to?</p> <p>17 MS. VANNI: Object to form.</p> <p>18 THE WITNESS: No. No, I'm</p> <p>19 trying to find it. I lost it</p> <p>20 where --</p> <p>21 MS. VANNI: The next page.</p> <p>22 THE WITNESS: Yeah.</p> <p>23 Regulatory was monitored by the</p> <p>24 regulatory people. As I testified</p>
Page 483	Page 485
<p>1 "Authorities in eastern Kentucky began</p> <p>2 arresting more than 200 suspected drug</p> <p>3 dealers Tuesday in the state's biggest</p> <p>4 crackdown yet on OxyContin, the powerful</p> <p>5 prescription painkiller blamed for scores</p> <p>6 of deaths."</p> <p>7 Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. And then lower down in that</p> <p>10 same e-mail there's a quote. "I'm</p> <p>11 afraid we're going to see a resurgence in</p> <p>12 its use with the lower-priced generic</p> <p>13 form," Smoot said."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. And it says, "Authorities</p> <p>17 blame abuse of OxyContin for scores of</p> <p>18 overdose deaths in Appalachian region and</p> <p>19 beyond."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. And on the top of the next</p> <p>23 page, it reads, "OxyContin is also blamed</p> <p>24 for a rise in crime across the region."</p>	<p>1 to earlier, Endo had different</p> <p>2 departments that did different</p> <p>3 things. It was very</p> <p>4 compartmentalized.</p> <p>5 So the other fact is --</p> <p>6 about this is we didn't launch the</p> <p>7 product until June of '05.</p> <p>8 This was in the middle of</p> <p>9 the litigation.</p> <p>10 So, you know, there was an</p> <p>11 ongoing business we were running.</p> <p>12 This was far off. It was involved</p> <p>13 in litigation. I'm not sure the</p> <p>14 appellate court. We knew there</p> <p>15 was going to be, I believe, by</p> <p>16 this time -- I don't know the</p> <p>17 exact dates. But in 2004 it was</p> <p>18 unlikely that there was going to</p> <p>19 be the -- the legal obstacles were</p> <p>20 going to be overcome.</p> <p>21 So the focus was not really</p> <p>22 on oxycodone ER at this time,</p> <p>23 because we were not in the</p> <p>24 position to market the product any</p>

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<p style="text-align: right;">Page 486</p> <p>1 time soon. When I say market, 2 sell the product. 3 BY MR. LENISKI: 4 Q. You don't have any reason to 5 believe that Endo did not retain or 6 wasn't paying Cohn &amp; Wolfe to perform any 7 analysis of media surrounding opioids or 8 OxyContin specifically around this time 9 of April 2004, do you? 10 MS. VANNI: Object to form. 11 THE WITNESS: No. I don't 12 have any -- I don't -- I'm 13 assuming they did. 14 BY MR. LENISKI: 15 Q. So even though Endo had not 16 yet launched its generic product, as you 17 just testified to, it was still paying 18 someone to monitor reports such as this 19 regarding OxyContin and send it along to 20 a number of individuals at Endo including 21 yourself, correct? 22 MS. VANNI: Object to form. 23 THE WITNESS: Yes. But my 24 point -- maybe it wasn't -- my</p>	<p style="text-align: right;">Page 488</p> <p>1 quickly. 2 BY MR. LENISKI: 3 Q. So where do you -- what's 4 the basis of your statement that Cohn &amp; 5 Wolfe was brought in for the 3202 and 03, 6 which ended up being Opana, correct? 7 A. Yes. 8 Q. What is the basis of your 9 statement that they -- that Cohn &amp; Wolfe 10 was retained by Endo with regard to Opana 11 versus any generic product that Endo was 12 seeking to market? 13 A. Because I believe -- I 14 believe -- I believe Opana -- Opana was 15 discussed earlier in a document around 16 this time frame for approval, so that was 17 a more imminent activity than oxycodone 18 ER, which, you know, we knew was off in 19 the distance. 20 Q. Okay. Do you recall taking 21 any actions with regard to what we see in 22 Exhibit 37, the information forwarded to 23 Endo by Lucy Lu (sic) at Cohn &amp; Wolfe? 24 MS. VANNI: Objection.</p>
<p style="text-align: right;">Page 487</p> <p>1 point was -- I should have made 2 the point clearer. Cohn &amp; Wolfe 3 was hired by Endo, and Endo was 4 98 percent brand. And Cohn &amp; 5 Wolfe was not brought in for 6 oxycodone ER. Oxycodone would 7 have been brought in for the 3202 8 and 03, because -- I don't 9 remember all the dates, but 10 their -- I think it said earlier 11 in a document, approval. So their 12 launch was more imminent, much 13 more imminent than oxycodone ER, 14 which everybody knew was still far 15 off in the distance, given the 16 legal hurdles or the legal 17 process -- I shouldn't -- however 18 you want to describe it, the legal 19 process that was ongoing. 20 It was -- at that point in 21 time, there was no end at the 22 light of the tunnel that somebody 23 could say, you know, we're going 24 to be able to launch it fairly</p>	<p style="text-align: right;">Page 489</p> <p>1 THE WITNESS: No, I don't, 2 no. I have no recollection. 3 BY MR. LENISKI: 4 Q. Okay. Do you recall any 5 discussions at Endo about the information 6 Ms. Lu forwarded in Exhibit 37? 7 A. I have no recollection. 8 (Document marked for 9 identification as Exhibit 10 Endo-Stevenson-38.) 11 BY MR. LENISKI: 12 Q. I handed the witness what we 13 identified as Exhibit 38. It's 14 ENDO-OPIOID_MDL-03389105. 15 Mr. Stevenson, I've handed 16 you Exhibit 38. It is a series of 17 e-mails attaching a -- what looks to be a 18 news report. First e-mail in the 19 sequence is from an individual named -- 20 at the very bottom of the first page, 21 Peter Lankau, L-A-N-K-A-U, to Scott 22 Shively, yourself, and Mr. Andrzejewski 23 dated April 23rd, 2004, correct? 24 A. Correct.</p>

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<p style="text-align: right;">Page 490</p> <p>1 Q. Who is Peter Lankau?</p> <p>2 A. He was -- he was the</p> <p>3 president. He might have been the CEO by</p> <p>4 this time. I don't remember the exact</p> <p>5 day he became the CEO. He became the CEO</p> <p>6 when Carol Ammon retired.</p> <p>7 Q. Okay. And he's forwarding</p> <p>8 an article to you and others. And his</p> <p>9 comments, which are at top of the second</p> <p>10 page, says, "Do we have Cohn &amp; Wolfe on</p> <p>11 standby for this? Where are we on media</p> <p>12 readiness for when we launch?"</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the article that</p> <p>16 he forwarded to you and others is titled</p> <p>17 "Attorney General Sees New Wave of Abuse</p> <p>18 in Generic OxyContin," correct?</p> <p>19 A. Yes.</p> <p>20 Q. The byline says</p> <p>21 Philadelphia. "Pennsylvania's Attorney</p> <p>22 General says he has concerns that the</p> <p>23 planned introduction of cheaper generic</p> <p>24 versions of the painkiller OxyContin will</p>	<p style="text-align: right;">Page 492</p> <p>1 Q. Okay. So clearly Mr. Lankau</p> <p>2 is sending this article to you because it</p> <p>3 has to do with the impending launch of</p> <p>4 generic OxyContin, correct?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 BY MR. LENISKI:</p> <p>7 Q. Is that a fair reading of</p> <p>8 Mr. Lankau's e-mail?</p> <p>9 MS. VANNI: Object to form.</p> <p>10 THE WITNESS: I would say</p> <p>11 yes.</p> <p>12 BY MR. LENISKI:</p> <p>13 Q. Okay. And his question, "Do</p> <p>14 we have Cohn &amp; Wolfe on stand-by for</p> <p>15 this," did you understand what he was</p> <p>16 talking about?</p> <p>17 A. I understand now, having</p> <p>18 seen the documents, that Cohn &amp; Wolfe was</p> <p>19 primarily used by the brand -- I never</p> <p>20 hired Cohn &amp; Wolfe. So the work they did</p> <p>21 for Endo was 99 percent, maybe</p> <p>22 100 percent for the brand side. And so I</p> <p>23 think what he's asking is here, he's</p> <p>24 asking Scott Shively and -- because it</p>
<p style="text-align: right;">Page 491</p> <p>1 lead to a surge in abuse of the drug."</p> <p>2 Did I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. And then the article goes on</p> <p>5 under the third page, second -- third</p> <p>6 full paragraph. "Two companies, Teva</p> <p>7 Pharmaceuticals and Endo Pharmaceuticals,</p> <p>8 were given FDA approval to sell the</p> <p>9 generic drugs on the condition that they</p> <p>10 also include abuse warnings and operated</p> <p>11 a risk management program designed to</p> <p>12 limit the possibility of illegal use."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So do you recall</p> <p>16 receiving the e-mail from Mr. -- no, it's</p> <p>17 not that name -- Lankau on or about this</p> <p>18 time, April 23, 2004?</p> <p>19 A. I don't recall.</p> <p>20 Q. Okay. Do you recall</p> <p>21 responding to this e-mail in any form or</p> <p>22 fashion that you received from</p> <p>23 Mr. Lankau?</p> <p>24 A. I didn't -- I don't recall.</p>	<p style="text-align: right;">Page 493</p> <p>1 was a brand function. It was in his</p> <p>2 budget, do we have them on stand-by for</p> <p>3 this. That's what he's asking.</p> <p>4 So I don't have any</p> <p>5 recollection of the document. I never</p> <p>6 responded to it, because I didn't involve</p> <p>7 myself with Cohn &amp; Wolfe.</p> <p>8 Q. So is your testimony then</p> <p>9 that you had no responsibilities with</p> <p>10 respect to what Mr. Lankau calls in his</p> <p>11 e-mail, media readiness, for when Endo</p> <p>12 was launching generic OxyContin?</p> <p>13 MS. VANNI: Object to form.</p> <p>14 THE WITNESS: Yeah, I -- I</p> <p>15 don't have any -- I didn't have</p> <p>16 any responsibility for hiring Cohn</p> <p>17 &amp; Wolfe. So he's asking Scott</p> <p>18 Shively who, I'm guessing -- I</p> <p>19 shouldn't guess, but I'm assuming</p> <p>20 that -- you know, I'm confident</p> <p>21 Cohn &amp; Wolfe was in his budget. I</p> <p>22 didn't have any -- I didn't pay</p> <p>23 Cohn &amp; Wolfe any kind of fee. It</p> <p>24 was never charged to me.</p>

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<p style="text-align: right;">Page 494</p> <p>1 BY MR. LENISKI:</p> <p>2 Q. Okay. In the e-mail</p> <p>3 responding to Mr. Lankau, Scott Shively</p> <p>4 writes to you and others, also on</p> <p>5 April 23, 2004, in the last line of his</p> <p>6 e-mail he writes, "I'd like to suggest</p> <p>7 that Bill, George, and I have C&amp;W put</p> <p>8 together their plan and proposal ASAP and</p> <p>9 review with you so we can agree to take</p> <p>10 appropriate actions. We'll speak with</p> <p>11 them right away about this."</p> <p>12 Did I read that correctly?</p> <p>13 A. Where is that? Yes. Yes.</p> <p>14 Q. Okay. Do you recall being</p> <p>15 involved in any discussions between</p> <p>16 yourself, Mr. Newbould, and Scott Shively</p> <p>17 with getting a proposal from Cohn &amp;</p> <p>18 Wolfe?</p> <p>19 A. I don't recall any -- any</p> <p>20 meeting.</p> <p>21 Q. Okay.</p> <p>22 A. It could have happened. I</p> <p>23 just don't recall.</p> <p>24 Q. All right. And above</p>	<p style="text-align: right;">Page 496</p> <p>1 correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And do you know who</p> <p>4 Patty Leitch was?</p> <p>5 A. No, I don't remember off the</p> <p>6 top of my head.</p> <p>7 Q. Okay. She writes, "In case</p> <p>8 you have not seen this yet, please see</p> <p>9 article below about Actiq abuse that</p> <p>10 quotes a spokesperson for Attorney</p> <p>11 General Pappert."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. And then the last line of</p> <p>15 her e-mail states, "As part of the 3218</p> <p>16 issue management plan, we need to decide</p> <p>17 how we will respond to media inquiries on</p> <p>18 reports of abuse and diversion. We can</p> <p>19 put this on the agenda for Monday's</p> <p>20 meeting."</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know what Ms. Leitch</p> <p>24 is referring to when she says the 328 --</p>
<p style="text-align: right;">Page 495</p> <p>1 there's another e-mail from -- also from</p> <p>2 Mr. Shively, and the last line in his</p> <p>3 e-mail is, "Bill, we should have a brief</p> <p>4 telecom on this with C&amp;W, you, me, and</p> <p>5 George. I'll ask Dani to set up."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall partaking in</p> <p>9 any telecon with Cohn &amp; Wolfe?</p> <p>10 A. I don't have any</p> <p>11 recollection of that.</p> <p>12 Q. Okay.</p> <p>13 (Document marked for</p> <p>14 identification as Exhibit</p> <p>15 Endo-Stevenson-39.)</p> <p>16 BY MR. LENISKI:</p> <p>17 Q. I've handed you Exhibit 39,</p> <p>18 which is ENDO-OPIOID_MDL-02843461.</p> <p>19 It's an e-mail from Patty</p> <p>20 Leitch to a number of individuals,</p> <p>21 including yourself, dated April 28, 2004.</p> <p>22 The subject is Actiq abuse in</p> <p>23 Pennsylvania.</p> <p>24 Have I represented that</p>	<p style="text-align: right;">Page 497</p> <p>1 3218 issues management plan?</p> <p>2 A. I'm sorry, could you restate</p> <p>3 that please?</p> <p>4 Q. Ms. Leitch refers here to</p> <p>5 the 3218 issues management plan.</p> <p>6 A. Yes.</p> <p>7 Q. My question is, do you know</p> <p>8 what she's talking about?</p> <p>9 A. No, I don't -- I don't know</p> <p>10 what she's talking about.</p> <p>11 Q. Okay. And she references</p> <p>12 the "need to decide how to respond to</p> <p>13 media inquiries on reports of abuse and</p> <p>14 diversion."</p> <p>15 Do you have any recollection</p> <p>16 about what she is referring to there?</p> <p>17 A. No. No recollection.</p> <p>18 Q. And what is Actiq?</p> <p>19 A. Actiq -- excuse me. Actiq</p> <p>20 was the brand name for what was called</p> <p>21 the lollypop -- it was a fentanyl</p> <p>22 lollypop. We at one time considered</p> <p>23 working on it, but we were unable to</p> <p>24 overcome the science because the</p>

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<p style="text-align: right;">Page 498</p> <p>1 machinery that Cephalon used, if I recall 2 correctly, was proprietary and we 3 couldn't overcome the patent so we 4 dropped it. 5 But it was -- it's used for 6 people with, I think it says here, 7 with -- in the paragraph of the article, 8 it talks about "designed to speed relief 9 to cancer patients, because it goes, it 10 is a lollipop in your mouth." And we -- 11 we had looked at working on it because it 12 was very difficult to do scientifically, 13 but we couldn't overcome the patent 14 because of the proprietary nature of the 15 machines as I recall. It had something 16 to do with that. And so we dropped the 17 product from our development program. 18 Q. Okay. So Actiq was 19 manufactured by another manufacturer, 20 correct, not Endo? 21 A. Actiq was a brand of 22 Cephalon, I believe. 23 Q. Okay. In the article below, 24 that is forwarded by Ms. Leitch, about</p>	<p style="text-align: right;">Page 500</p> <p>1 respect to the information Ms. Leitch 2 forwarded to yourself and others at Endo 3 about this time? 4 A. About -- about -- about 5 Actiq, no. We're not -- we weren't 6 involved with Actiq. We had decided not 7 to work on Actiq. 8 Q. Okay. Have you ever heard 9 the term "crisis binder"? 10 A. No. 11 (Document marked for 12 identification as Exhibit 13 Endo-Stevenson-40.) 14 BY MR. LENISKI: 15 Q. I've handed the witness what 16 we've marked as Exhibit 40. This is an 17 e-mail -- it's a few e-mails. First one 18 is -- the top of the first page is from 19 Patty Leitch to you, Mr. Stevenson, and 20 others, dated May 21, 2004. Subject is 21 EN3218 preparedness next steps. 22 Did I read that correctly? 23 A. Yes. 24 Q. Okay. And Ms. Leitch states</p>
<p style="text-align: right;">Page 499</p> <p>1 three paragraphs down, there is a quote 2 starting -- that starts, "we are starting 3 to see it emerge." 4 Do you see that? 5 A. Yes. 6 Q. And the quote is -- full 7 quote there in the article is, "We're 8 starting to see it emerge as a drug that 9 is, as we call it, diverted, which is a 10 legally prescribed drug being used 11 illegally, said Kevin Harley, spokesman 12 for state Attorney General Jerry Pappert. 13 "It is a drug that is easily 14 administered or taken by somebody who 15 might be afraid to either take a pill, 16 snort or inject a needle in their arm." 17 Did I read that correctly? 18 A. Yes. 19 Q. Okay. Now, do you recall 20 receiving this e-mail and article from 21 Ms. Leitch about this time? 22 A. I -- no, I don't recall. 23 Q. Okay. Do you recall being a 24 party to any discussions or meetings with</p>	<p style="text-align: right;">Page 501</p> <p>1 in her e-mail, "Scott, George, and Bill. 2 Just wanted to follow up on last Friday's 3 meeting to confirm our recommended next 4 step to finalize the EN3218 crisis binder 5 as we are waiting approval of the 6 product." 7 Did I read that correctly? 8 A. Yes. 9 Q. Okay. Does reading that 10 refresh your recollection about what a 11 crisis binder was? 12 A. No, I don't -- I don't -- I 13 don't remember -- I don't remember a 14 crisis binder. 15 Q. Okay. Does reading what Ms. 16 Leitch wrote about a follow-up on last 17 Friday's meeting to confirm recommended 18 next step to finalize the crisis binder 19 refresh your recollection about being in 20 meetings with any individuals from Cohn &amp; 21 Wolfe? 22 A. No, it doesn't. As I 23 testified a moment ago, in May of 2004, 24 it was virtually a certain -- a certainty</p>

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<p style="text-align: right;">Page 502</p> <p>1 that we weren't going to -- we weren't</p> <p>2 going to get approval for the product. I</p> <p>3 believe the appellate court case had</p> <p>4 already been held and I think it was</p> <p>5 the -- the appellate -- the appearance</p> <p>6 before the appellate court on the -- on</p> <p>7 the lower court verdict had transpired</p> <p>8 and we were in the waiting period. And</p> <p>9 the waiting period was, I remember very</p> <p>10 explicitly, was going to be 15 or</p> <p>11 18 months. You know, so we got approval</p> <p>12 in June of '05, and in June of '05, you</p> <p>13 can go back 15 months obviously, it's</p> <p>14 with -- in '04, May of -- in this case,</p> <p>15 May of '04. We weren't -- I wasn't</p> <p>16 expecting, based on what I had heard, we</p> <p>17 were going to get out of the legal woods,</p> <p>18 out of the -- complete the legal process.</p> <p>19 And so, you know, people may have sent me</p> <p>20 information and documents. But, you</p> <p>21 know, for me, okay, great. But at the</p> <p>22 end of the day, it wasn't a focal point</p> <p>23 at the moment because I knew it was still</p> <p>24 a ways off if we won at the appellate</p>	<p style="text-align: right;">Page 504</p> <p>1 for sale on the black market in</p> <p>2 Appalachia, even though it's not yet</p> <p>3 available in all pharmacies."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Do you recall seeing</p> <p>7 this article about the time that</p> <p>8 Ms. Leitch sent the e-mail?</p> <p>9 A. Could have.</p> <p>10 Q. Do you recall discussing the</p> <p>11 article with anybody at Endo?</p> <p>12 A. Could have. It wasn't -- we</p> <p>13 weren't selling it. So from my</p> <p>14 perspective, it wasn't an Endo product.</p> <p>15 That, I know. We didn't sell the product</p> <p>16 in May of '04 -- or, yeah, May of '04.</p> <p>17 We were not selling -- we did not sell</p> <p>18 oxycodone ER until we got FDA approval,</p> <p>19 and FDA normally doesn't approve the</p> <p>20 product -- give final approval until the</p> <p>21 legal process is completed. As a matter</p> <p>22 of fact, in most cases when I -- you</p> <p>23 know, post-Endo when I've had a</p> <p>24 settlement with a brand company, as you</p>
<p style="text-align: right;">Page 503</p> <p>1 court level.</p> <p>2 Q. Ms. Leitch continues in her</p> <p>3 e-mail, "I'm sure you've seen the broad</p> <p>4 news pick-up of the Kentucky area</p> <p>5 diversion of generic OxyContin. See</p> <p>6 below."</p> <p>7 Did I read that correctly?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And she does</p> <p>10 forward -- she forwards a series of</p> <p>11 articles, but I'll turn your attention to</p> <p>12 what's on Page 4 of this exhibit. There</p> <p>13 is an article, "Police seeing generic" --</p> <p>14 "generic OxyContin on street."</p> <p>15 A. Yes. Okay.</p> <p>16 Q. Did you find that?</p> <p>17 A. Yes.</p> <p>18 Q. And that's an article from</p> <p>19 the Associated Press on May 21, 2004,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And byline is Pikeville,</p> <p>23 Kentucky. "The generic form of the</p> <p>24 powerful painkiller OxyContin already is</p>	<p style="text-align: right;">Page 505</p> <p>1 guys probably know better than anybody,</p> <p>2 you have to file that settlement with the</p> <p>3 court, and it becomes a court order.</p> <p>4 And until -- when you get</p> <p>5 that court order, you have to send that</p> <p>6 to the FDA because you can't assume that</p> <p>7 they keep up with all this stuff.</p> <p>8 So you send it to the FDA.</p> <p>9 When they -- when it's clear to them that</p> <p>10 the legal process is complete, that's</p> <p>11 when they give you approval. So this was</p> <p>12 not Endo product.</p> <p>13 Q. And thank you for that</p> <p>14 clarification. My question, though, was</p> <p>15 whether you recall discussing the</p> <p>16 information from the article forwarded</p> <p>17 from Ms. Leitch in this exhibit with</p> <p>18 anyone at Endo?</p> <p>19 A. No.</p> <p>20 Q. Okay. Did you -- but</p> <p>21 according to the article from Ms. Leitch,</p> <p>22 Endo does have information that, even</p> <p>23 though it's not selling its own generic</p> <p>24 product, the generic form of OxyContin is</p>

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<p style="text-align: right;">Page 506</p> <p>1 already for sale on the black market in 2 Appalachia, correct? 3 MS. VANNI: Object to form. 4 THE WITNESS: Yes. But what 5 she doesn't say, whether it was 6 FDA approved. 7 BY MR. LENISKI: 8 Q. Okay. Do you see the last 9 line of the article that she forwarded. 10 There's a quote from a Kentucky state 11 police detective Eddie Crum. It's on 12 Page 5. 13 A. Oh, sorry. Yep. 14 Q. Mr. Crum states, "'We knew 15 when the FDA approved generic OxyContin 16 that it would end up in the region,' 17 Engle said. 'But we didn't think it 18 would be here before the pharmacies got 19 it.'" 20 Did I read that correctly? 21 A. Yes. 22 Q. Okay. Do you know if you 23 forwarded Ms. Leitch's e-mail to anyone 24 at Endo?</p>	<p style="text-align: right;">Page 508</p> <p>1 manila folder. Put it in a manila 2 folder, put it in my filing cabinet. 3 Q. Did you have any folders on 4 your e-mail program where media reports 5 like the one we see from Mrs. Leitch in 6 Exhibit 40 were saved, to your knowledge? 7 A. No, I don't have any 8 knowledge. We're going back, you know, 9 12 years. 10 Q. Sure. Do you recall ever 11 giving a direction that such media 12 reports were supposed to be filed in a 13 particular way, either electronically or 14 in paper or otherwise? 15 A. No. 16 Q. Okay. Are you aware how 17 much Endo paid Cohn &amp; Wolfe for their 18 services? 19 A. No. 20 Q. So you had no -- did you 21 have any role whatsoever in determining 22 what compensation Endo would pay to 23 Cohn &amp; Wolfe for their services? 24 MS. VANNI: Objection.</p>
<p style="text-align: right;">Page 507</p> <p>1 A. No, I don't -- I don't 2 recall. I doubt I would have. 3 Q. Was it your practice to file 4 away or otherwise save articles such as 5 this media report from Ms. Leitch 6 concerning generic OxyContin as part of 7 your job responsibilities? 8 MS. VANNI: Object to form. 9 THE WITNESS: I don't think 10 I would call it -- you know, I got 11 e-mails and whatever given to me, 12 and I filed them away. 13 BY MR. LENISKI: 14 Q. When you say you filed them 15 away, what do you mean by that? 16 A. Well, it was either on my 17 e-mail, on my -- you know, whatever the 18 computer electronically, or it could have 19 been in a folder. You know, somebody 20 goes to a meeting, and they hand -- 21 sorry -- they hand you a document, you go 22 back to your office, you put it in a 23 folder. Or I gave it to my assistant, 24 put it in a -- you know, like you have</p>	<p style="text-align: right;">Page 509</p> <p>1 THE WITNESS: As I testified 2 already several times I wasn't 3 involved in Cohn &amp; Wolfe. I have 4 no idea -- you can put a knife in 5 my throat, I couldn't tell you 6 what Endo paid them. 7 BY MR. LENISKI: 8 Q. I won't do that today. 9 A. Okay. 10 MS. VANNI: Today. 11 BY MR. LENISKI: 12 Q. Do you know how long Endo 13 utilized Cohn &amp; Wolfe's services? 14 A. No. 15 Q. Did you independently 16 monitor news reports about opioids after 17 the date of, for example, Exhibit 40, 18 which is May of 2004? 19 A. No. 20 Q. I'm going to show you a 21 document, which unfortunately, for some 22 reason, I don't have copies of. But it's 23 a document which is Bates-stamped 24 ENDO-OPIOID_MDL-05554689.</p>

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<p style="text-align: right;">Page 510</p> <p>1 MR. LENISKI: Can I ask that 2 it be put on your screen? 3 MS. VANNI: You don't have a 4 copy for him? 5 MR. LENISKI: I don't. 6 THE WITNESS: I'll read 7 through my bifocals. 8 MR. LENISKI: Has it been 9 pulled up? Okay. I'm going to 10 ask that that be entered as 11 Exhibit 41 to your deposition -- 12 (Document marked for 13 identification as Exhibit 14 Endo-Stevenson-41.) 15 MR. LENISKI: -- even though 16 we don't have a paper copy of it. 17 BY MR. LENISKI: 18 Q. This is an e-mail from 19 yourself to David Kerr dated May 22, 20 2007, correct? 21 A. Yes. 22 Q. And you are forwarding 23 what's called FDA News Drug Daily 24 Bulletin, correct?</p>	<p style="text-align: right;">Page 512</p> <p>1 lawmakers sent a letter to FDA 2 commissioner Andrew von Eschenbach asking 3 the agency to reclassify OxyContin after 4 the drug's manufacturers pleaded guilty 5 to misbranding the product." 6 Did I read that correctly? 7 A. Yes. 8 Q. And then two paragraphs down 9 starts, "Purdue Pharma, which 10 manufactures OxyContin, and three current 11 and former company executives recently 12 pleaded guilty to mislabeling the drug 13 and will pay more than \$634 million in 14 fines. The company had promoted the drug 15 as less addictive, less subject to abuse, 16 and less likely to cause withdrawal 17 symptoms than other painkillers." 18 Read that correctly? 19 A. Yes. 20 Q. And the very next paragraph 21 reads, "The company 'ruthlessly marketed' 22 the drug to individuals in areas with 23 less access to medical information and 24 higher levels of disability, such as</p>
<p style="text-align: right;">Page 511</p> <p>1 A. Yes. 2 Q. Who is David Kerr? 3 A. He was the vice president of 4 business operations, who was my immediate 5 boss. 6 Q. Okay. And did he oversee 7 both generic and branded business at 8 Endo? 9 A. Yes. 10 Q. Okay. You write to Mr. Kerr 11 on this occasion, "FYI, please note first 12 article on OxyContin. Could have an 13 impact on Opana." 14 Did I read that correctly? 15 A. Yes. 16 Q. And then you forward the FDA 17 Drug -- I'm sorry, FDA News Drug Daily 18 Bulletin. And the very first item under 19 the header, "Lawmakers ask FDA to 20 reclassify OxyContin following guilty 21 pleas." 22 Do you see that? 23 A. Yes. 24 Q. That reads, "Two republican</p>	<p style="text-align: right;">Page 513</p> <p>1 Virginia and Kentucky, the lawmakers said 2 in the letter. 3 "One quarter of all overdose 4 deaths from OxyContin in 2002 happened in 5 eastern Kentucky, which includes Rogers' 6 district, the lawmaker noted in a 7 separate statement." 8 Did I read that correctly? 9 A. Yes. 10 Q. Okay. Do you recall sending 11 this e-mail to Mr. Kerr? 12 A. No. 13 Q. Okay. When you wrote to 14 Mr. Kerr that this article about Purdue 15 paying -- pleading guilty to mislabeling 16 and paying a very large multi-million 17 dollar fine, when you said, "This could 18 have an impact on Opana," what were you 19 saying to Mr. Kerr? 20 A. I was -- FYI, just be aware 21 of it. That's what I was saying. 22 Q. What was the impact on Opana 23 that you expected or anticipated from 24 such a report?</p>

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<p style="text-align: right;">Page 514</p> <p>1 A. The top sentence, where it</p> <p>2 talks about reclassifying the drug.</p> <p>3 That's what I was referring to.</p> <p>4 Q. And what do you mean by</p> <p>5 that?</p> <p>6 A. My point was if they</p> <p>7 reclassified OxyContin, you know -- I</p> <p>8 wasn't involved in Opana, but, you know,</p> <p>9 this stuff was up for him since he</p> <p>10 supervised the brand business to see if</p> <p>11 they would -- you know, if there was</p> <p>12 going to be a move afoot to reclassify</p> <p>13 Opana. That was the whole point.</p> <p>14 Q. And can you tell the jury</p> <p>15 what you mean by reclassify?</p> <p>16 A. I don't -- I mean, I guess</p> <p>17 what they mean by reclassify is to -- is</p> <p>18 to take it up to the next level and call</p> <p>19 it a Class I. You know, after -- the</p> <p>20 only class left after Class II is a Class</p> <p>21 I.</p> <p>22 Q. And what would be the impact</p> <p>23 of reclassifying an opioid as a Class I</p> <p>24 narcotic?</p>	<p style="text-align: right;">Page 516</p> <p>1 again.</p> <p>2 Q. COLT, C-O-L-T, staff was at</p> <p>3 Endo?</p> <p>4 A. No.</p> <p>5 Q. This is the last document I</p> <p>6 have I don't have a copy of. But I'm</p> <p>7 going to ask that</p> <p>8 ENDO-OPIOID_MDL-01915705, please, be</p> <p>9 shown.</p> <p>10 (Document marked for</p> <p>11 identification as Exhibit</p> <p>12 Endo-Stevenson-42.)</p> <p>13 BY MR. LENISKI:</p> <p>14 Q. This is -- we'll have it</p> <p>15 identified as Exhibit 42. The document</p> <p>16 at the top reads "COLT staff minutes,</p> <p>17 Thursday, May 24, 2007," correct?</p> <p>18 A. This was the -- now I -- now</p> <p>19 I -- I thought it was a product. I'm</p> <p>20 sorry. When you say COLT staff, I was</p> <p>21 thinking about a product. COLT I believe</p> <p>22 was the commercial something leadership</p> <p>23 team. And I don't know -- I forget what</p> <p>24 the O stands for. Maybe it's commercial</p>
<p style="text-align: right;">Page 515</p> <p>1 MS. VANNI: Object to form.</p> <p>2 THE WITNESS: I don't know</p> <p>3 all the specific differences</p> <p>4 between Class II and Class I since</p> <p>5 we didn't carry Class Is. But</p> <p>6 it's more restrictive. How</p> <p>7 restrictive, I don't know.</p> <p>8 BY MR. LENISKI:</p> <p>9 Q. Okay. All right. Was there</p> <p>10 any other reason why you forwarded this</p> <p>11 e-mail to Mr. Kerr on this occasion?</p> <p>12 A. No.</p> <p>13 Q. And according to what the</p> <p>14 article -- I'm sorry -- the news report</p> <p>15 from the FDA that you forwarded to</p> <p>16 Mr. Kerr, there continued to be problems</p> <p>17 with abuse and diversion in the region</p> <p>18 around Kentucky, correct?</p> <p>19 A. According to the FDA</p> <p>20 bulletin, yes.</p> <p>21 Q. I'm done with that.</p> <p>22 Do you know what COLT Staff</p> <p>23 was at Endo?</p> <p>24 A. I'm sorry. What? Say that</p>	<p style="text-align: right;">Page 517</p> <p>1 and operational leadership team. I don't</p> <p>2 remember. That's what it was referring</p> <p>3 to.</p> <p>4 Q. Okay. And you were part of</p> <p>5 the COLT staff, correct?</p> <p>6 A. Yes, I was part of the</p> <p>7 commercial leadership team, yes.</p> <p>8 Q. Okay. And how long had you</p> <p>9 been a member of that leadership team?</p> <p>10 A. My recollection is from the</p> <p>11 time that I arrived at Endo as a vice</p> <p>12 president. I think all the vice</p> <p>13 presidents were a member of it, if I</p> <p>14 remember right.</p> <p>15 Q. How frequently did the</p> <p>16 commercial leadership team meet?</p> <p>17 A. I have -- I don't remember.</p> <p>18 Q. Do you recall the purpose</p> <p>19 for commercial leadership -- leadership</p> <p>20 team meetings?</p> <p>21 A. It was more -- you know, it</p> <p>22 was more like, you know, a staff meeting.</p> <p>23 Q. Okay. This particular set</p> <p>24 of minutes from May 24, 2007, do you see</p>

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<p style="text-align: right;">Page 518</p> <p>1 Item Number 2, sales update?</p> <p>2 A. Yes.</p> <p>3 Q. And third item down, there's</p> <p>4 a bullet that reads, "Opana surge program</p> <p>5 update."</p> <p>6 A. Yes.</p> <p>7 Q. Do you see that?</p> <p>8 Do you recall what that was?</p> <p>9 A. No. Opana was a brand. I</p> <p>10 wasn't involved in the brand. I've said</p> <p>11 that, you know, numerous times. I've</p> <p>12 testified to that numerous times. I have</p> <p>13 no idea. What -- I wasn't involved in</p> <p>14 Opana in any way other than the stocking</p> <p>15 of the product in -- from -- in '07, late</p> <p>16 '06, '07, until I left the company.</p> <p>17 Q. Okay. And so is it fair</p> <p>18 then to say that at these commercial</p> <p>19 leadership team meetings there were</p> <p>20 presentations made by both leadership in</p> <p>21 the branded portion of the company as</p> <p>22 well as the generic portion of the</p> <p>23 company?</p> <p>24 A. Yes. The leadership team</p>	<p style="text-align: right;">Page 520</p> <p>1 Q. Okay. And that was data</p> <p>2 that -- correct, that Endo received from</p> <p>3 wholesalers and distributors about those</p> <p>4 wholesalers and distributors' customers</p> <p>5 who received Endo product?</p> <p>6 A. Yes. Sales out, yes.</p> <p>7 Q. Okay.</p> <p>8 (Document marked for</p> <p>9 identification as Exhibit</p> <p>10 Stevenson-43.)</p> <p>11 BY MR. LENISKI:</p> <p>12 Q. Was it -- was it part of</p> <p>13 your job responsibilities to receive and</p> <p>14 review 867 data received from Endo's</p> <p>15 wholesale and distributor customers?</p> <p>16 A. No, I -- I didn't review it</p> <p>17 or receive it.</p> <p>18 Q. I've handed the witness</p> <p>19 what's been identified as Exhibit 43 to</p> <p>20 this deposition.</p> <p>21 This is -- this is a native</p> <p>22 file, I'll represent. Bates-stamped</p> <p>23 ENDO-OPIOID_MDL-04139984. The file name</p> <p>24 on this document is McKesson 867 Opana</p>
<p style="text-align: right;">Page 519</p> <p>1 was comprised of brand and -- and myself.</p> <p>2 I was the only generic VP. So it was</p> <p>3 just myself and the other people, yeah.</p> <p>4 Q. Okay. In other words,</p> <p>5 generic side of the business was not</p> <p>6 walled off from the branded side. There</p> <p>7 were joint meetings where the leadership</p> <p>8 such as yourself and the other</p> <p>9 individuals listed in this exhibit met</p> <p>10 and talked about all aspects of Endo</p> <p>11 Pharmaceutical's business, correct?</p> <p>12 MS. VANNI: Object to form.</p> <p>13 THE WITNESS: Correct. But</p> <p>14 my point is I didn't focus on what</p> <p>15 they were saying since I wasn't</p> <p>16 involved in it.</p> <p>17 BY MR. LENISKI:</p> <p>18 Q. That's fair enough. Okay.</p> <p>19 I'm done with that.</p> <p>20 Do you recall being asked</p> <p>21 questions this morning, or I should say</p> <p>22 this afternoon, about what was called 867</p> <p>23 data?</p> <p>24 A. 867 data, yes, I do.</p>	<p style="text-align: right;">Page 521</p> <p>1 data August to present, 11-3-06.xls.</p> <p>2 And the original custodian</p> <p>3 on this, on Exhibit 43, is you, George</p> <p>4 Stevenson.</p> <p>5 A. That's what it says.</p> <p>6 Someone gave it to me. But I wasn't</p> <p>7 responsible for assembling it.</p> <p>8 Q. And that's fair.</p> <p>9 A. And it deals with Opana. So</p> <p>10 it depends -- when was this? '06? Okay.</p> <p>11 I would have been involved in stocking.</p> <p>12 Maybe that's why I received it. But I</p> <p>13 wasn't -- other than stocking I wasn't</p> <p>14 involved with Opana.</p> <p>15 Q. Well, and that's my question</p> <p>16 is, what aspect of Opana stocking were</p> <p>17 you involved with?</p> <p>18 A. I was overseeing the</p> <p>19 national account executives in their role</p> <p>20 and interaction with the trade accounts</p> <p>21 as we just testified earlier, to ensure</p> <p>22 that the product was adequately stocked</p> <p>23 in order to meet prescription needs when</p> <p>24 the prescription arrived in the pharmacy</p>



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<p style="text-align: right;">Page 522</p> <p>1 for adjudication.</p> <p>2 Q. Okay. So even though Opana</p> <p>3 was a branded product, you would still</p> <p>4 have that responsibility, correct?</p> <p>5 MS. VANNI: Object to form.</p> <p>6 THE WITNESS: For stocking.</p> <p>7 Just for stocking.</p> <p>8 BY MR. LENISKI:</p> <p>9 Q. Okay. And was that true for</p> <p>10 both Opana and Opana ER?</p> <p>11 A. I don't remember if Opana ER</p> <p>12 had launched by that time. I don't -- I</p> <p>13 don't remember.</p> <p>14 Q. Okay. And I'll also</p> <p>15 represent that Exhibit 43 originally</p> <p>16 contained a lot of information. We only</p> <p>17 included the Tennessee-specific 867 data</p> <p>18 that was in the original spreadsheet.</p> <p>19 And so that's what you see on Page 2 and</p> <p>20 3 of this document. Okay?</p> <p>21 A. Okay.</p> <p>22 Q. If you look at the document,</p> <p>23 I just want to understand what we're</p> <p>24 looking at here.</p>	<p style="text-align: right;">Page 524</p> <p>1 I'm -- I would believe it was a</p> <p>2 customer -- wholesaler customer ID</p> <p>3 number.</p> <p>4 Q. Okay. Then there's a</p> <p>5 customer account name, which is the name</p> <p>6 of the particular -- and here it's a --</p> <p>7 appears to be a pharmacy, correct,</p> <p>8 Crescent Center Drugs?</p> <p>9 A. I have no idea who they are.</p> <p>10 I'm assuming it's a pharmacy. Could</p> <p>11 be -- it could be a medical center.</p> <p>12 Q. Okay. And then there's the</p> <p>13 address, city and state and zip code for</p> <p>14 this particular customer, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And what is the EM item</p> <p>17 number column, what is that?</p> <p>18 A. I don't know.</p> <p>19 Q. And the sale description,</p> <p>20 that is the -- what was in the bottle</p> <p>21 that was sold for that particular</p> <p>22 customer, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And then so the first line</p>
<p style="text-align: right;">Page 523</p> <p>1 The first column is an</p> <p>2 invoice date, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And then what's the fill DC</p> <p>5 ID?</p> <p>6 A. I have no idea.</p> <p>7 Q. Okay. And then sales</p> <p>8 quantity. What does that number</p> <p>9 indicate?</p> <p>10 A. A bottle.</p> <p>11 Q. One bottle?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And there's a</p> <p>14 customer account ID, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And was that customer</p> <p>17 account ID assigned to this particular</p> <p>18 customer from the wholesaler or</p> <p>19 distributor from whom the 867 data was</p> <p>20 received?</p> <p>21 A. I believe so, but I'm not --</p> <p>22 I don't believe it was an Endo customer</p> <p>23 ID number. Would have -- this was sales</p> <p>24 out from the wholesalers. So I'm --</p>	<p style="text-align: right;">Page 525</p> <p>1 would be Opana ER tablets 5-milligram</p> <p>2 strength, 100 count, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And then the NDC number is</p> <p>5 what?</p> <p>6 A. The NDC number for Opana ER.</p> <p>7 Yes, it would be the Opana ER NDC number.</p> <p>8 Q. Okay. Now you said you</p> <p>9 didn't -- it's not your recollection that</p> <p>10 you routinely analyzed this data; is</p> <p>11 that, correct?</p> <p>12 A. I didn't analyze, so it was</p> <p>13 my testimony I never analyzed this data.</p> <p>14 Q. Okay. And when -- who would</p> <p>15 you receive this data from?</p> <p>16 A. I don't recall who gave this</p> <p>17 to me. I have no idea.</p> <p>18 Q. Do you have any idea why you</p> <p>19 would have been included or copied on the</p> <p>20 receipt of such information?</p> <p>21 MS. VANNI: Object to form.</p> <p>22 THE WITNESS: I think -- I</p> <p>23 think I testified earlier that</p> <p>24 there was a focus on stocking.</p>

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<p>1 That it wasn't up to -- it wasn't  2 up to the level that management  3 wanted. Somebody may have given  4 me one of these. You know, it's a  5 lot of information. Doesn't  6 really -- you know, from my  7 standpoint, it doesn't -- someone  8 has to go through them and analyze  9 it by wholesaler DC. It's not  10 something I was doing or the  11 national account executives were  12 doing. It was somebody in  13 operations doing it.  14 BY MR. LENISKI:  15 Q. Okay. Was it your practice  16 to forward such information to anyone in  17 particular at Endo, 867 data?  18 A. No. No.  19 Q. Was it your practice to file  20 or otherwise store 867 data?  21 A. I don't know what you mean  22 by practice. Obviously some document  23 ended up in my file. But, you know, I --  24 I mean the volume here was pretty</p>	<p>1 Q. Good evening, Mr. Stevenson.  2 A. Good evening.  3 Q. It's been a long day. Are  4 you okay?  5 A. Oh, I'm fine.  6 Q. I just have a few questions  7 for you.  8 I want to direct your  9 attention to an exhibit that Ms. Scullion  10 marked during your cross-examination.  11 It's Plaintiffs' Exhibit 33. Do you have  12 that in front of you?  13 A. Yes.  14 Q. You were asked a series of  15 questions about this document. Do you  16 recall that line of questioning?  17 A. Yes.  18 Q. And in particular, if I can  19 direct your attention to MDL  20 ENDO-OPIOID_MDL-02255807.  21 A. Yes.  22 Q. The paragraph beginning "how  23 can I be sure I'm not addicted." Do you  24 see that?</p>
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<p>1 significant because the previous -- one  2 of the previous exhibits focused on  3 McKesson. I'm guessing, since this goes  4 through McKesson, that there was a --  5 that this was related to that. But I  6 don't know. You know, I have no idea.  7 It's just -- it's just a sheet with data  8 and it has a cover sheet on it. So I'm  9 not familiar with the document.  10 Q. Okay.  11 MR. LENISKI: I don't have  12 any more questions at this time.  13 THE WITNESS: Okay.  14 MS. VANNI: Take a  15 five-minute break.  16 THE VIDEOGRAPHER: Going off  17 the record at 5:59.  18 (Short break.)  19 THE VIDEOGRAPHER: We are  20 back on the record at 6:15.  21 - - -  22 EXAMINATION  23 - - -  24 BY MS. VANNI:</p>	<p>1 A. Yes.  2 Q. Do you recall being asked a  3 series of questions by Miss Scullion  4 about this particular part of the  5 document?  6 A. Yes.  7 Q. And I believe counsel asked  8 you that one thing that is not stated  9 here that the patient would be reading is  10 to ask your doctor to be sure you're not  11 addicted. Do you recall that line of  12 questioning?  13 A. Yes, yes.  14 Q. I want to direct your  15 attention to the first page of that  16 document if you could.  17 And it's, for the record,  18 ENDO-OPIOID_MDL-02255805.  19 Could you read the first  20 paragraph that's in bold there?  21 A. "The information contained  22 in this brochure does not take the place  23 of talking with your healthcare provider  24 about your pain and your pain</p>

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<p style="text-align: right;">Page 530</p> <p>1 medications."</p> <p>2 Q. Thank you.</p> <p>3 MS. VANNI: I have no</p> <p>4 further questions for you,</p> <p>5 Mr. Stevenson.</p> <p>6 THE VIDEOGRAPHER: Going off</p> <p>7 the record at 6:16.</p> <p>8 MS. SCULLION: So I have no</p> <p>9 questions for the witness.</p> <p>10 We did skip Exhibit Number</p> <p>11 11. That's inadvertent. It was</p> <p>12 not used.</p> <p>13 MS. VANNI: Thank you.</p> <p>14 THE VIDEOGRAPHER: That</p> <p>15 concludes the deposition. The</p> <p>16 time is 6:17.</p> <p>17 (Excused.)</p> <p>18 (Deposition concluded at</p> <p>19 approximately 6:17 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 532</p> <p>1 INSTRUCTIONS TO WITNESS</p> <p>2</p> <p>3 Please read your deposition</p> <p>4 over carefully and make any necessary</p> <p>5 corrections. You should state the reason</p> <p>6 in the appropriate space on the errata</p> <p>7 sheet for any corrections that are made.</p> <p>8 After doing so, please sign</p> <p>9 the errata sheet and date it.</p> <p>10 You are signing same subject</p> <p>11 to the changes you have noted on the</p> <p>12 errata sheet, which will be attached to</p> <p>13 your deposition.</p> <p>14 It is imperative that you</p> <p>15 return the original errata sheet to the</p> <p>16 deposing attorney within thirty (30) days</p> <p>17 of receipt of the deposition transcript</p> <p>18 by you. If you fail to do so, the</p> <p>19 deposition transcript may be deemed to be</p> <p>20 accurate and may be used in court.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 531</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I HEREBY CERTIFY that the</p> <p>6 witness was duly sworn by me and that the</p> <p>7 deposition is a true record of the</p> <p>8 testimony given by the witness.</p> <p>9</p> <p>10 It was requested before</p> <p>11 completion of the deposition that the</p> <p>12 witness, GEORGE STEVENSON, have the</p> <p>13 opportunity to read and sign the</p> <p>14 deposition transcript.</p> <p>15</p> <p>16 _____</p> <p>17 MICHELLE L. GRAY,</p> <p>18 A Registered Professional</p> <p>19 Reporter, Certified Shorthand</p> <p>20 Reporter, Certified Realtime</p> <p>21 Reporter and Notary Public</p> <p>22 Dated: February 20, 2019</p> <p>23</p> <p>24</p> <p>18 (The foregoing certification</p> <p>19 of this transcript does not apply to any</p> <p>20 reproduction of the same by any means,</p> <p>21 unless under the direct control and/or</p> <p>22 supervision of the certifying reporter.)</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 533</p> <p>1 - - - - -</p> <p>2 E R R A T A</p> <p>3 - - - - -</p> <p>4 PAGE LINE CHANGE</p> <p>5</p> <p>6 REASON: _____</p> <p>7</p> <p>8 REASON: _____</p> <p>9</p> <p>10 REASON: _____</p> <p>11</p> <p>12 REASON: _____</p> <p>13</p> <p>14 REASON: _____</p> <p>15</p> <p>16 REASON: _____</p> <p>17</p> <p>18 REASON: _____</p> <p>19</p> <p>20 REASON: _____</p> <p>21</p> <p>22 REASON: _____</p> <p>23</p> <p>24 REASON: _____</p>

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<p style="text-align: right;">Page 534</p> <p>1</p> <p>2           ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4           I, _____, do</p> <p>5   hereby certify that I have read the</p> <p>6   foregoing pages, 1 - 535, and that the</p> <p>7   same is a correct transcription of the</p> <p>8   answers given by me to the questions</p> <p>9   therein propounded, except for the</p> <p>10   corrections or changes in form or</p> <p>11   substance, if any, noted in the attached</p> <p>12   Errata Sheet.</p> <p>13</p> <p>14</p> <p>15</p> <p>16   _____ GEORGE STEVENSON                      DATE</p> <p>17</p> <p>18</p> <p>19   Subscribed and sworn</p> <p>20   to before me this</p> <p>21   ____ day of _____, 20____.</p> <p>22   My commission expires: _____</p> <p>23</p> <p>24   _____ Notary Public</p>	
<p style="text-align: right;">Page 535</p> <p>1           LAWYER'S NOTES</p> <p>2   PAGE LINE</p> <p>3   _____</p> <p>4   _____</p> <p>5   _____</p> <p>6   _____</p> <p>7   _____</p> <p>8   _____</p> <p>9   _____</p> <p>10   _____</p> <p>11   _____</p> <p>12   _____</p> <p>13   _____</p> <p>14   _____</p> <p>15   _____</p> <p>16   _____</p> <p>17   _____</p> <p>18   _____</p> <p>19   _____</p> <p>20   _____</p> <p>21   _____</p> <p>22   _____</p> <p>23   _____</p> <p>24   _____</p>	

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